
Review of Special and Revolving Funds of the Departments of Commerce and Consumer Affairs, Education, Health, and Human Services

A Report to the
Governor
and the
Legislature of
the State of
Hawaii

Report No. 92-8
February 1992

THE AUDITOR
STATE OF HAWAII

OVERVIEW

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STATE OF HAWAII

Review of Special and Revolving Funds of the Departments of Commerce and Consumer Affairs, Education, Health, and Human Services

Summary

In Act 240, SLH 1990, the Legislature directed the Auditor to evaluate most of the special and revolving funds in existence as of July 1, 1990, and to review legislation proposing new funds. Special and revolving funds are financing mechanisms created outside the general fund to support specific programs and activities. The Legislature voiced its concern about the growing numbers of these funds and their effect on the fiscal integrity of the State. Of approximately 140 existing funds, 75 were created within the past eight years. This represents more than a 100 percent increase over all previous years.

Experts have questioned the benefits of special funds. As larger sums of money are set aside in this way and not lapsed to the general fund, there can be a cumulative effect on the overall financial condition of government. Special funds can give agencies full control of their unappropriated cash reserves, provide a way to skirt the general fund expenditure ceiling, and over time erode the general fund. The experts say that special funds are likely to hamper budget administration. From a legislative perspective, they are less desirable because they are not fully controlled by the appropriations process and thus lessen the Legislature's control of the budget.

This review was of 35 special and revolving funds within or administratively attached to four departments: the Departments of Commerce and Consumer Affairs, Education, Health, and Human Services. In evaluating the funds, we used two criteria provided by Act 240—whether the fund continues to serve the purpose for which it was originally created and whether it reflects a clear link between the benefit sought and charges made upon the beneficiaries of the program. To this we added a third—that the fund demonstrate the capacity to be financially self-sustaining.

We recommended the repeal of 14 funds, the lapsing of the balances of 2 others to the general fund, the modification of 5 others, and the continuation of 14.

Recommendations and Response

Department of Commerce and Consumer Affairs. Of the department's nine funds, we recommended that eight be continued and one be repealed. Of the three to be continued, we recommended the department adjust its fee

structures to more closely approximate the cost of services provided. The department agrees with all of our recommendations except one. It believes that the Insurance Examiner's Revolving Fund should not be repealed because the situation has changed since our review, and the fund is now being used as intended.

Department of Education. Of the department's ten funds, we recommended that two be lapsed to the general fund, three be repealed, two be modified, and three be continued. The department concurs fully with six of our recommendations, concurs in part with one, and does not concur with three. It does not concur that unneeded cash in the School Special Fees Special Fund should be transferred to the general fund. It states that the year end balances are the result of collections made at the end of the one school year and are expended the next school year. We found this was not the case. In 1991 expenditures of the fund were \$250,000 less than the June 30, 1990 cash balance and the cash balance had increased to about two times the 1991 receipts. The department's disagreement with the recommendations to repeal three other funds is based principally on the argument that the activities need the flexibility of special or revolving funds and without them, there is no incentive to adjust fees to cover costs.

Department of Health. Of the department's 11 funds, we recommended that 9 be repealed and 2 be continued. the department concurs with most of our recommendations. It disagrees that the Environmental Response Revolving Fund should be repealed and the program budgeted through the general fund. It believes the fund should be continued to demonstrate its need. We found that the Division of Community Hospitals, *as currently operated*, is not self-sustaining and should therefore be made part of the normal budget process. The department disagrees with our recommendation that the Facility Administration Fund and the Public Health Facility Special Funds be repealed. In part the department points out that this might cause the statutory general fund expenditure ceiling to be exceeded, and that dependence on general fund support eliminates incentives to collect moneys due the State.

Department of Human Services. Of the department's five funds, we recommended that four be continued and one be repealed. The department did not respond to our recommendations.

As required by Act 240, the Department of Budget and Finance was provided a copy of this report for review and comment. The department restated its position that program evaluations need to be performed to determine whether the programs are meeting their legislatively mandated purposes, and only then can judgments be made as to whether special or revolving funds are still warranted.

Marion M. Higa
Acting Auditor
State of Hawaii
Office of the Auditor
465 South King Street, Suite 500
Honolulu, Hawaii 96813
(808) 587-0800
FAX (808) 587-0830

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Submitted by

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Foreword

In Act 240, SLH 1990, the Legislature requested the Auditor to review, over a five-year period, all special and revolving funds in existence as of July 1, 1990. Originally scheduled to be completed in 1993, this review is of those funds administered by or administratively attached to the Departments of Commerce and Consumer Affairs, Education, Health, and Human Services. The purpose of the review is to assess whether each department's special or revolving funds should be continued, modified, or repealed. As required by the act, we have included our recommended legislation at the end of the report.

We wish to acknowledge the excellent cooperation extended by the officials and staff of the Departments of Commerce and Consumer Affairs, Education, Health, and Human Services. We also extend our appreciation to the staff of the Legislative Reference Bureau, which drafted the recommended legislation.

Marion M. Higa
Acting Auditor
State of Hawaii

Table of Contents

Chapter 1 Introduction

Objectives of the Review	1
Scope of the Review	1
Method of the Review	2

Chapter 2 Background on Special and Revolving Funds

Loss of Budgetary Control	3
Hawaii's Budgetary Control Act of 1957	4
Recent Proliferation of Special Funds	4

Chapter 3 Criteria for Reviewing Special and Revolving Funds

Fund Should Serve Original Purpose	7
Fund Should Have Clear Link Between Benefits and Charges	8
Fund Should Be Financially Self-Sustaining	8

Chapter 4 Department of Commerce and Consumer Affairs

Summary of Recommendations	9
Cable Television Fund, Section 440G-15, HRS	10
Commissioner's Education and Training Fund, Section 431:2-214, HRS	10
Compliance Resolution Special Fund, Section 26-9, HRS	11
Condominium Management Education Fund, Section 514A-131, HRS	11
Contractors Education Fund, Section 444-29, HRS	12
Insurance Examiner's Revolving Fund, Section 431:2-307, HRS	12
Public Broadcasting Revolving Fund, Section 314-13, HRS	13
Real Estate Education Fund, Section 467-11, HRS	13

Special Fund for Deposit of Special Handling Fees for Certification of Documents, Section 415-128, HRS	14
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Chapter 5 Department of Education

Summary of Recommendations	15
Adult Education Special Fund, Section 301-4, HRS	16
Driver Education Special Fund, Section 431:10C-115, HRS	16
Lahainaluna Boarding School Special Fund, Section 300-4, HRS	17
Libraries Special Fund, Section 312-3.6, HRS	17
School Priority Fund, Section 296D-1, HRS	18
School Special Fees Special Fund, Section 298-5, HRS	18
Special School Lunch Fund Section 296-44, HRS	19
Special Summer School Fund, Section 298-3.5, HRS	20
Storeroom Revolving Fund, Section 296-36.5, HRS	20
Use of School Facilities Special Fund, Section 298-23, HRS	21

Chapter 6 Department of Health

Summary of Recommendations	23
Environmental Response Revolving Fund, Section 128D, HRS	24
Epidemic Control Fund, Section 325-6, HRS	25
Facility Administration Fund, Section 323-73, HRS	25
Hawaii Registered Nurse Student Loan Fund, Section 321-25, HRS	26
Public Health Facility Special Funds, Section 323-73, HRS	26
Revolving Fund for Group Homes for Recovering Substance Abusers, Section 334-14, HRS	27
Revolving Fund for Home Health Services, Section 321-93, HRS	27
Revolving Fund for Kalaupapa Store, Section 326-27, HRS	28

Special Funds Established for Title XIX Funds Collected under Section 333F-17.5, HRS	29
Water Pollution Control Revolving Fund, Section 342D-54, HRS	30

Chapter 7 Department of Human Services

Summary of Recommendations	31
Blind Shop Revolving and Handicraft Fund, Section 347-12, HRS	31
Housing for Elders Revolving Fund, Section 359-53, HRS	32
Housing Revolving Fund, Section 359-13, HRS	32
Revolving Fund for Workshop or Home Labor Purposes for Welfare Recipients, Section 346-9, HRS	33
Teachers' Housing Revolving Fund, Section 359-2, HRS	33

Notes	35
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Responses of the Affected Agencies	37
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Proposed Legislation	59
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List of Figures

Figure 2.1 Special and Revolving Funds Created Since 1983	5
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Chapter 1

Introduction

This is a report on our review of special and revolving funds in the Department of Commerce and Consumer Affairs, Department of Education, Department of Health, and Department of Human Services. The review comprises another of a series directed by Act 240, Session Laws of Hawaii 1990, and scheduled over a five-year period. Our first report (No. 91-10), issued in February 1991, reviewed the special and revolving funds in the Department of Accounting and General Services, the Department of Agriculture, and the Department of Budget and Finance. We analyzed all special and revolving funds proposed during the 1991 legislative session.

The Legislature in Act 240 expressed concern about maintaining the fiscal integrity of the State when fluctuations in the economy affect general fund revenues. Special and revolving funds receive their revenues without consideration of the State's overall financial condition. The Legislature felt it fiscally prudent to request the auditor to evaluate existing special and revolving funds and to review legislation proposing new ones.

Objectives of the Review

1. To evaluate the appropriateness of special and revolving funds of four specified departments.
2. To recommend whether these funds should be continued, modified, or repealed.

Scope of the Review

Act 240 schedules the review of all special and revolving funds in existence as of July 1, 1990, except those in the Executive Office of the Governor and its agencies, the Office of the Lieutenant Governor, the Department of Hawaiian Home Lands, and the Office of Hawaiian Affairs. This review examines those funds directly administered by the Departments of Commerce and Consumer Affairs, Education, Health, and Human Services, or by agencies administratively attached to them.

In our review, we did not consider the value of a program, the quality of its management, or whether the program deserved to be continued. Our focus was on the appropriateness of special funding *as a means of financing the particular program or activity*.

Method of the Review

In evaluating the appropriateness of these funds we applied the same criteria developed for our first review. We discuss the criteria in Chapter 3 of this report. We researched the legislative history of each fund to determine its intent and purpose. We also reviewed, as appropriate, the administrative rules, financial audit reports, agency financial reports, and other documents. To gain an understanding of fund operations and the consequences of abolishing certain funds, we interviewed key fiscal and program personnel. The financial information shown for fiscal year 1990-91 are unaudited amounts obtained from the agencies.

Our work was performed from May 1991 through October 1991 in accordance with generally accepted government auditing standards.

Chapter 2

Background on Special and Revolving Funds

Section 37-62, Hawaii Revised Statutes, defines special funds as those “dedicated or set aside by law for a specified object or purpose, but excluding revolving funds and trust funds.” It defines revolving funds as those “from which is paid the cost of goods and services rendered or furnished to or by a state agency and which [are] replenished through charges made for the goods or services or through transfers from other accounts or funds.”

Special and revolving funds are therefore financing mechanisms created outside the general fund to provide ongoing support for specific activities or programs. While most special funds are designed to be self-sustaining, some receive regular subsidies from the general fund. Revolving funds are a type of special fund that replenishes itself through charges to a specific group of users. Revolving funds are often established with an appropriation of seed money from the general fund.

Loss of Budgetary Control

From the perspective of those who manage special fund programs, such funds are highly desirable. They guarantee funding and have provided agencies with the flexibility to spend excess money without seeking legislative appropriations. From a legislative perspective, however, special funds are less desirable. They guarantee for a program a continuing source of revenue that is not fully controlled by the appropriations process.

Concerns about loss of budgetary control through the use of special funds are not new. A 1961 report on special funds in the 50 states noted that special fund activity had grown to such an extent that many governors and legislatures had “lost control of the planning of expenditures.”¹ Special funds led to (1) lack of an accurate accounting for state resources, (2) excess cash reserves held in special fund accounts, and (3) the practice of earmarking resources instead of budgeting for expenditures. The report called for a comprehensive statement on existing practices and criteria to help states eliminate unjustified special funds while maintaining those which are clearly legitimate. Needless special funds had undermined the authority of state legislatures, and the report recommended that such funds should be eliminated. If not eliminated, the funds should at least be included in the executive budget and appropriated by the legislature. In view of these concerns, many states in the early 1960s greatly reduced their reliance on special funding.

At the federal level, a report on revolving funds published in 1977 by the General Accounting Office noted similarly that congressional control over a program is lessened when the program is financed as a revolving fund. This is because revolving funds can expend moneys without congressional review. The report concluded that the public interest is best served when congressional control over activities is exercised through the appropriations process by regular reviews of, and direct actions on, programs and financing requirements. Departure from this standard should be permitted only when it can be shown *“that an activity cannot be successfully operated in the public interest within the appropriation process (emphasis added).”*²

Hawaii’s Budgetary Control Act of 1957

Nearly 35 years ago, the 28th Territorial Legislature enacted a law that placed “all special funds under legislative and executive budgetary control in the same manner as the general fund.”³ Act 320, Session Laws of Hawaii 1957, provided that transfers could be made from special funds to the general fund of moneys not spent beyond fiscal year requirements. Act 320 also requested from the Territorial Bureau of the Budget a study of all special and revolving funds.

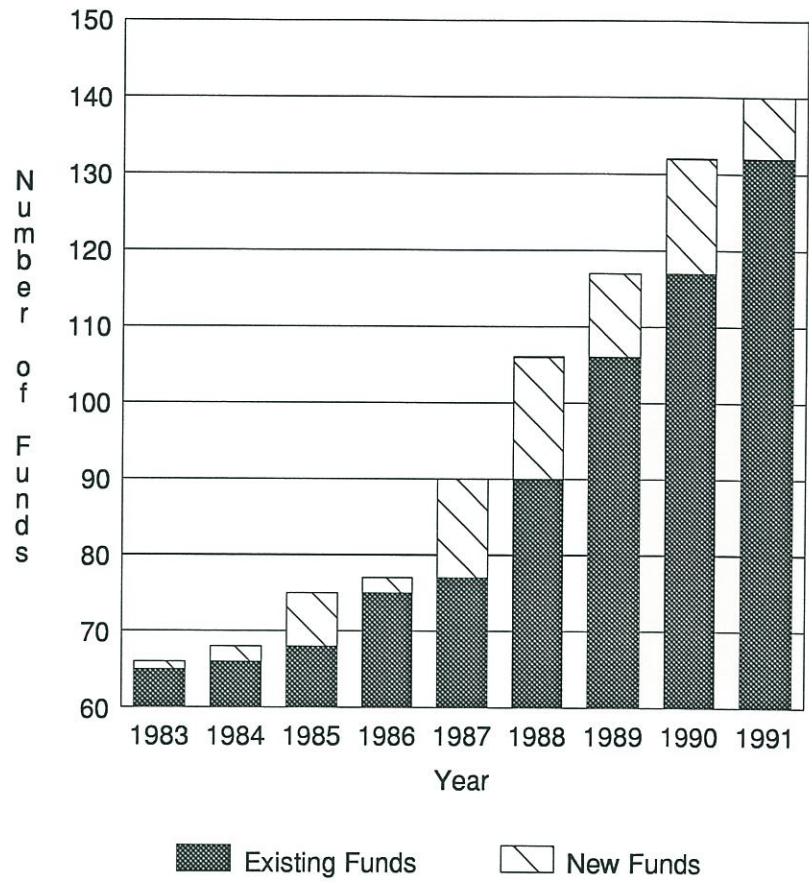
In 1959, the budget bureau contracted the Public Administration Service (PAS) to conduct the study.⁴ In addressing the use of special funds, the PAS report concluded that “the effects of special fund financing are such that the device should be avoided in all operations other than enterprises and peripheral functions.”⁵ Subsequently, the 1959 Territorial Legislature approved Act 265, which abolished many special funds and directed the affected programs to be budgeted through the general fund.

Recent Proliferation of Special Funds

The proliferation of special funds in recent years has again given rise to legislative concern. Over the last eight years 75 new special or revolving funds have been created by statute, representing a more than 100 percent increase over the previous years.⁶ See Figure 2.1.

The increasing number of special funds has a cumulative effect on the overall financial condition of the State. Special funds give agencies full control over their unappropriated cash reserves, provide a means to avoid the general fund expenditure ceiling, and over time erode the general fund.

Figure 2.1
Special and Revolving Funds Created Since 1983



Agency control of unappropriated cash reserves

Section 37-53, HRS, allows special fund programs to transfer excesses beyond fiscal year requirements to the general fund. Agencies, however, rarely use this provision, allowing cash reserves to accumulate in many special funds even after the legislative spending authorization has lapsed. Previously, these cash reserves were available to the agency for spending because of a budget proviso allowing the governor to approve increases in the expenditure ceilings of special funds.⁷ This practice, however, is not authorized for the fiscal biennium 1991-93 because the budget proviso was eliminated from the General Appropriations Act of 1991 (Act 296).⁸ As a result, even though a special fund program may have cash reserves, its spending cannot exceed its fiscal year appropriation.

Avoidance of the expenditure ceiling

A primary issue debated during the 1978 Constitutional Convention was whether to limit government expenditures, and if so, whether to limit only general fund expenditures or all state expenditures. It was argued then that placing a limit solely on general fund expenditures could have the effect of “shifting expenditures to special revenue funds, creating new special revenue funds (unless there is some constitutional restriction against their creation), or forcing those programs which are not self-sustaining to increase their own program revenues.”⁹ The amendment adopted by the convention and subsequently ratified by the electorate applied the ceiling only to general fund expenditures and did not include special funds. As predicted in 1978, the number of special funds increased markedly during the past two fiscal years when the general fund expenditure ceiling was exceeded.

Erosion of the general fund through earmarking

In recent years especially, some special funds have been created by earmarking general fund appropriations. Earmarking is the practice of designating certain taxes or fees to support specific activities on a continuing basis. It is based on the premise that in certain circumstances government services should be paid for by those who directly benefit from them. Revenues are earmarked from certain taxes and diverted to special funds *before* funds are appropriated for general fund programs.

Hawaii’s 1989 Tax Review Commission voiced concerns in a study on special funds and their impact upon Hawaii’s overall financial condition. The commission criticized special funds created for specific programs or activities when there is no direct link between the sources of the revenues and the program. It cited, for example, the educational facilities improvement special fund, which earmarks a total of \$630 million in general revenues over seven years.¹⁰

A recent report by the National Conference of State Legislatures, which discusses the dynamics of earmarking practices within the 50 states, noted that earmarking hinders budgetary control by legislatures because it automatically dedicates revenues to programs. When funding is automatic, programs do not undergo the same degree of legislative scrutiny exercised over general fund programs. Further, earmarking distorts the distribution of funds. It is often arbitrary, with little connection between the source of revenue and the service provided. The absence of this link can result in a special program having either deficits or reserves. In the event of shortfalls in general revenues, a special fund program can tie up funds that may be needed in other areas.¹¹

The primary consideration for lawmakers on this practice is how to weigh legislative control of the budget against administrative flexibility for the program. The NCSL report concludes that “earmarking is more likely to hamper than assist state budgetary design and management.”¹²

Chapter 3

Criteria for Reviewing Special and Revolving Funds

Act 240, Session Laws of Hawaii 1990, establishes two criteria to be used in reviewing whether a particular special and revolving fund should be continued, modified, or repealed. These criteria are the extent to which the fund:

1. Continues to serve the purpose for which it was originally created; and
2. Reflects a clear link between the benefit sought and charges made upon the users or beneficiaries of the program, as opposed to serving primarily as a means to provide the program or users with an automatic means of support which is removed from the normal budget and appropriations process.

In addition to the two criteria, the act allows other criteria to be applied. From our review of the public finance literature, we believe that a third criterion should be the extent to which the fund:

3. Demonstrates the capacity to be financially self-sustaining.

Fund Should Serve Original Purpose

The first criterion is to determine the extent to which the fund continues to serve the purpose for which it was originally created. Enabling legislation usually identifies the purpose for establishing a special or revolving fund. Our review will determine whether the purpose of the fund is still applicable.

Circumstances and conditions, which originally provided the rationale and need for the creation of a special or revolving fund, may have changed. In such a case, the fund may now be serving some purpose other than the purpose for which it was created. The Legislature may agree that the current purpose satisfies a current need. If so, it would be appropriate for the Legislature to decide whether the statutes should be amended to update the purpose of the fund or whether some other financing arrangements should be made.

Changed circumstances and conditions could also have the effect of negating the need for the fund and rendering it inactive. Such a situation would indicate strongly that the fund should be discontinued.

Fund Should Have Clear Link Between Benefits and Charges

The second criterion emphasizes that the fund should have a clear link between program benefits and program charges. The firmest example of this is when a program has the capacity to generate revenues, and the revenues, in turn, are used to support the program. This practice flows from the benefit theory of finance, which holds that those who benefit from the program should be the same persons to pay for the program. Special and revolving funds that operate under this theory are more defensible than those which do not.

As stated in the law, the criterion would challenge a fund which is used—not to link user benefits and user charges—but to provide a program and its users with an automatic means of support. An example of such a fund is one which is financed through the earmarking of taxes that are not levied specifically on program beneficiaries but which are broadly based and fall generally on all taxpayers.

Fund Should Be Financially Self-Sustaining

Related to the second criterion is the concept that special or revolving funds should demonstrate the capacity to be financially self-sustaining. The most defensible fund is one which derives all of its revenues through fees or taxes on the specific users of the program and which can meet all of its expenditures through its own revenues.

In effect, a special or revolving fund earns its status by being self-sustaining. A fund which must rely on periodic infusions of general fund appropriations to make up for insufficient program revenues has less reason to be accorded special status. It could just as well be funded entirely through the general fund appropriations process.

The major precedent in Hawaii state government for applying the self-sustaining standard is in the exemption of certain general obligation bonds from the constitutional debt limit. Under the State Constitution, reimbursable general obligation bonds may be exempt from the debt limit to the extent that the particular special fund responsible for repayment is self-sustaining. If the special fund is fully self-sustaining—capable of meeting all of its operating costs as well as repaying the general fund for debt service—all of the bonds may be exempt from the debt limit. In essence, the debt limit exemption is “earned” when a fund can demonstrate its self-sustaining capacity.

Similarly, a fund should “earn” its status as a special or revolving fund through a demonstration that it has the capacity to meet all of its operating expenditures through its own program revenues.

Chapter 4

Department of Commerce and Consumer Affairs

This chapter presents our findings and recommendations on each of nine special and revolving funds administered by the Department of Commerce and Consumer Affairs. Seven funds are special funds and two are revolving funds. We have excluded five other funds because they were not within the scope of this review. The Contractors Recovery Fund, the Real Estate Recovery Fund, and the Travel Agency Recovery Fund are trust funds. The Travel Agency Education Fund has been sunsetted by Act 285, SLH 1991. The Special Drivers Education Fund Account acts as a clearing account for underwriters' fees that are allocated annually to the Department of Education and the Judiciary.

The funds are discussed in alphabetical order. For each we make a recommendation for disposition, present the purpose of the fund, and give the basis for our recommendation. We evaluate neither the program nor its management, nor do we assess whether or not the program should be continued. Our focus is on the appropriateness of a special or revolving fund being the means of financing a particular program or activity.

Summary of Recommendations

Cable Television Fund. Continue but consider reducing fees.

Commissioner's Education and Training Fund. Continue.

Compliance Resolution Special Fund. Continue but consider changing the fee structure.

Condominium Management Education Fund. Continue.

Contractors Education Fund. Continue.

Insurance Examiner's Revolving Fund. Repeal and budget through the general fund.

Public Broadcasting Revolving Fund. Continue.

Real Estate Education Fund. Continue.

Special Fund for Deposit of Special Handling Fees for Certification of Documents. Continue but consider changing the fee structure.

**Cable Television
Fund
Section 440G-15,
HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$ 1,267,622
Receipts	617,505
Expenditures	355,772
Ending Balance	\$ 1,529,355

Recommendation: Continue but consider reducing fees.

This fund was created to account for the deposit and expenditure of annual fees collected from cable television operators. Act 112, SLH 1970, authorized the department to assess each cable television operator an annual fee which is to be used to offset the costs of regulating cable television systems. The fund continues to serve its purpose, paying for the cost of such regulation. The link between the benefits sought and the charges made upon the users is direct because cable television operators who are regulated by the department are required to pay a fee which is deposited into the fund. Not only is the fund self-sustaining, it has a growing cash balance due to an excess of fees over costs. The fund meets all three criteria and should be continued. However, in light of the growing cash balance, consideration should be given to reducing fees to levels more reflective of costs incurred.

**Commissioner's
Education and
Training Fund
Section 431:2-214,
HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$ 77,723
Receipts	71,680
Expenditures	27,642
Ending Balance	\$ 121,761

Recommendation: Continue.

This fund was created in 1987. Its original purpose was to account for the receipt and expenditure of moneys for educating and training personnel of the insurance division. The receipts are from fees assessed of licensed insurers. The fund continues to serve its original purpose by providing training to personnel of the insurance division. It is also self-sustaining. There is linkage between the benefits sought and the charges made upon the users because the fees assessed regulated insurers are used to fund education costs of insurance regulators. The fund meets all three criteria and should be continued.

**Compliance
Resolution
Special Fund
Section 26-9, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	3,267,658
Receipts		2,345,632
Expenditures		1,867,778
Ending Balance	\$	3,745,512

Recommendation: Continue, but consider changing the fee structure.

This fund was created in 1982. The original purpose was to establish a funding mechanism to supplement general fund appropriations that would make it possible to increase the number of personnel in the Regulated Industries Complaints Office (RICO). The fund continues to serve the purpose for which it was originally created. Receipts are from fees assessed of those licensees regulated by the department. Expenditures are primarily for 52 of the 73 staff positions at RICO. The responsibilities of these positions are to investigate and resolve consumer complaints against persons or organizations providing services covered by regulation. There is some linkage because licensees who pay into the fund benefit from the resolution of complaints made against licensed and unlicensed service providers. The fund is more than self-sustaining—in fact, the fees assessed exceeded expenditures by \$477,000 in 1991. This fund meets all criteria and should be continued. However, in light of the fact that the ending cash balance is equal to two times the 1991 operating expenses, consideration should be given to changing the fee structure to more properly reflect the costs incurred.

**Condominium
Management
Education Fund
Section 514A-131,
HRS**

FINANCIAL DATA FOR FY1990-1991

Beginning Balance	\$	188,182
Receipts		233,353
Expenditures		80,014
Ending Balance	\$	331,521

Recommendation: Continue.

This relatively new fund was created in 1989 to finance and promote the Real Estate Commission's education and research in condominium management and registration, and to improve the administration of condominium associations. The fund continues to serve the purposes for which it was created. The commission has begun to use the fund to provide information and advice relating to the governance of

condominium management, and provide educational programs for condominium owners and their boards of directors. There is a direct link between the assessments made upon condominium associations and the information and education provided to condominium owners and associations. The fund is also self-sustaining. It meets all criteria and should be continued.

**Contractors
Education Fund
Section 444-29, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	32,402
Receipts		16,698
Expenditures		13,427
Ending Balance	\$	35,673

Recommendation: Continue.

This fund was created in 1973 for the Contractors License Board to use as a means of financing educational programs of the board. Contractors finance the fund from the interest earned on amounts they have paid into the Contractors Recovery Fund. The fund continues to serve the purpose for which it was created. Currently the fund is used to educate the public of the benefits of using licensed contractors. Because the receipts of the fund are from interest earned on amounts contractors have paid into the recovery fund, there is some linkage between those receipts and the benefits contractors derive from educating the public of the advantages of using licensed contractors. The fund is self-sustaining, and therefore meets all criteria and should be continued.

**Insurance
Examiner's
Revolving Fund
Section 431:2-307,
HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	183,815
Receipts		84,851
Expenditures		35,496
Ending Balance	\$	233,170

Recommendation: Repeal and budget through the general fund.

This fund was created in 1985 to fund the cost of examinations of insurance companies. Receipts of the fund were supposed to be derived by assessing the insurance companies the costs of examinations. We found that examinations are normally conducted by independent examiners under contract with the department, who bypass the fund by

collecting their fees directly from insurers. The insurers are also billed an additional 10 percent administrative surcharge which then is paid directly into the revolving fund. Further, the fund is now used to pay for education related expenses of insurance examiner's staff. The fund therefore does not serve its original purpose. It should be repealed, and the balance lapsed to the general fund. The education of departmental insurance examiners should be budgeted through the general fund and the Commissioner's Education and Training Fund.

**Public
Broadcasting
Revolving Fund
Section 314-13, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$ 2,733,815
Receipts	2,332,631
Expenditures	1,954,932
Ending Balance	\$ 3,111,514

Recommendation: Continue.

This fund was created in 1972 when the Hawaii Public Broadcasting Authority was established. Its original purpose was to account for the receiving and expending of funds derived from private sources for services and airtime and for state funds specifically appropriated for deposit into the fund. The authority also receives general funds for its day-to-day operations. The revolving fund continues to serve its original purpose. Receipts include viewer contributions, corporate grants and contributions, and federal grant money from the Corporation for Public Broadcasting. Expenditures of the revolving fund are limited to program acquisition, promotion and production, and fundraising. The relationship between the benefits sought and the donations made is direct because those who benefit from public television finance the programs through contributions and grants. The fund is self-sustaining. It therefore meets all three criteria and should be continued.

**Real Estate
Education Fund
Section 467-11, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$ 1,165,650
Receipts	1,016,812
Expenditures	1,354,720
Ending Balance	\$ 827,742

Recommendation: Continue.

Created in 1967, this fund was established to finance educational programs of the Real Estate Commission. Receipts of the fund consist of license fees charged real estate brokers and salespersons and interest earned on the Real Estate Recovery fund. The fund continues to serve the purpose for which it was created. The fund is used for education and research in the field of real estate to benefit both the public and licensees. There is linkage between the benefits of education and research to improve the real estate business, and the licensing fees assessed real estate brokers and salespersons. The fund has been self-sustaining and, therefore, meets all criteria and should be continued.

**Special Fund for
Deposit of Special
Handling Fees for
Certification of
Documents
Section 415-128, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	849,556
Receipts		545,838
Expenditures		359,229
Ending Balance	\$	1,036,165

Recommendation: Continue, but consider changing fee structure.

Created in 1983, this fund was intended to account for the fees of filing corporate documents and to pay for the personnel required to process these documents. The fund continues to serve the purpose for which it was originally created. Special handling fees are charged to those wanting to have the processing of documents expedited. There is a direct link between the benefits sought and the charges made upon the users because persons who receive the benefit of expedited processing pay special handling fees which are deposited into the fund. This fund is more than self-sustaining and the year end cash balance is more than twice the 1991 expenditures. It meets all three criteria and should be continued. However, in light of the relatively large cash balance, consideration should be given to changing the fee structure so that fees more closely approximate costs.

Chapter 5

Department of Education

This chapter presents our findings and recommendations on each of ten special and revolving funds administered by the Department of Education, including one by the Hawaii State Public Library System. Nine funds are special funds and one is a revolving fund. Two other special funds were not included in this review. The Laboratory School Cafeteria Special Fund is not administered by the Department of Education but by the University of Hawaii and therefore is being reviewed with other university funds. The Special Fund for Deposit of Moneys to Benefit Library Services is a trust fund and was not reviewed.

The funds are discussed in alphabetical order. For each we make a recommendation for disposition, present the purpose of the fund, and give the basis for our recommendation. We evaluate neither the program nor its management, nor do we assess whether or not the program should be continued. Our focus is on the appropriateness of a special or revolving fund being the means of financing a particular program or activity.

Summary of Recommendations

Adult Education Special Fund. Lapse balance to the general fund and budget through the general fund.

Driver Education Special Fund. Lapse balance to the general fund and budget through the general fund.

Lahainaluna Boarding School Special Fund. Continue.

Libraries Special Fund. Continue but increase allocations to libraries.

School Priority Fund. Repeal.

School Special Fees Special Fund. Continue but consider transferring unneeded cash to the general fund.

Special School Lunch Fund. Repeal and budget through the general fund.

Special Summer School Fund. Continue.

Storeroom Revolving Fund. Repeal and budget through the general fund.

Use of School Facilities Special Fund. Continue.

**Adult Education
Special Fund
Section 301-4, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	148,684
Receipts		370,917
Expenditures		337,963
Ending Balance	\$	181,638

Recommendation: Lapse balance to the general fund and budget through the general fund.

Although never formally created by statute, this fund was established in 1945 to collect the fees charged for the department's adult education program. Section 301-4, HRS, authorizes the Department of Education to collect fees from students regularly enrolled in the adult and community education program. The fund continues to serve the purpose for which it was established. It collects the fees charged for special interest classes in the adult education program. No fees are charged for other types of classes offered under the program. There is a direct link between the benefits sought and the charges made upon the users because those who are enrolled in general interest classes or take the General Education Development Test are assessed fees which are deposited into the special fund. The fund, however, is not operationally self-sustaining. The adult education program annually receives general fund appropriations that cover 80 and 90 percent of its costs. We therefore recommend that the balance be lapsed to the general fund, and the adult education program budgeted entirely through the general fund.

**Driver Education
Special Fund
Section 431:10C-115,
HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	1,163,187
Receipts		655,645
Expenditures		644,693
Ending Balance	\$	1,174,139

Recommendation: Lapse balance to the general fund and budget through the general fund.

Although never created by statute, this fund was established in 1987 by the department to receive the fees collected by the insurance commissioner from motor vehicle insurers under Section 431:10C-115, HRS. The fees are used to support the driver education program of the Department of Education. The fund operates for the purpose for which it was established. It accounts for the fees received from the insurance commissioner and uses them to support the driver education program. There is no linkage within the fund between the benefits sought and the fees charged to users. Students who benefit from the driver education program pay a \$10 fee which is deposited to the general fund and not to this special fund. The fund clearly does not meet the second criterion and the balance should be lapsed to the general fund and the driver education program budgeted through the general fund.

**Lahainaluna
Boarding School
Special Fund
Section 300-4, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	64,935
Receipts		20,967
Expenditures		14,230
Ending Balance	\$	71,672

Recommendation: Continue.

This fund was established in 1921 to hold revenues collected by the boarding school and to finance its vocational program. The students of the Lahainaluna Boarding Program work on farm projects and in other vocational and technical areas. The fund continues to serve the purpose for which it was originally created. It is used to collect the receipts from the sale of agricultural products and to pay for the cost of student helpers. There is a direct link between the benefits sought and the charges made upon the users. Students who work on the school farm projects are paid from sales their products. The fund is also self-sustaining. It therefore meets all three criteria and should be continued.

**Libraries Special
Fund
Section 312-3.6, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	372,800
Receipts		462,146
Expenditures		54,533
Ending Balance	\$	780,413

Recommendation: Continue but increase allocations to libraries.

This fund was created in 1989. Its original purpose was to finance some of the cost of books and other library materials purchased by the public libraries. Cash balances indicate the fund has been slow to serve its original purpose. Fines for overdue or lost books are supposed to be used by the individual libraries to purchase books and materials. Expenditures in 1991 were relatively low—of the \$372,000 available, the department expended only \$55,000 and had purchase commitments outstanding of \$211,000. The cash balance will continue to increase as \$350,000 has been allocated to libraries to spend in 1992. This amount is substantially less than the \$463,000 collected by libraries in 1991. There is a direct link between the benefits sought and the charges made upon the users. Individuals who borrow library books are charged fines for overdue library items and the cost of lost or damaged items. The fund should be self-sustaining. The fund meets all three criteria and should be continued. However, in light of the fact expenditures continue to be less than receipts, allocations to libraries should be increased.

**School Priority
Fund
Section 296D-1, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	0
Receipts		5,989,103
Expenditures		5,830,912
Lapsed Balance		(158,191)
Ending Balance	\$	0

Recommendation: Repeal.

The department has not set up a special fund for this program. This fund was authorized in 1982. The original purpose of this fund was to augment the instructional program and other educational services of the individual public schools. The department accounts for the program with its other general funded programs. The program is funded entirely by general fund appropriations and year-end balances are lapsed to the general fund. The fund does not meet the criteria and therefore should be repealed.

**School Special
Fees Special Fund
Section 298-5, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	436,480
Receipts		273,673
Expenditures		186,844
Ending Balance	\$	523,309

Recommendation: Continue but consider transferring unneeded cash to the general fund.

Created in 1982, this fund was intended to collect fees from students who damaged, lost, or destroyed school books, equipment, and supplies and to use the fees to replace books, equipment, and supplies. The fund appears to serve the purpose for which it was originally created. Fees and charges to persons responsible for damages are used to replace school property. However, the fact that fees and charges exceed the amount expended may indicate that not all lost or damaged items are being replaced or fixed. There is a link between the benefits sought and the charges made upon the users—the benefit of replacing lost or damaged property is supported by those who incur those costs. The fund is more than self-sustaining and the year end cash balance is about twice the year's receipts. Although the fund meets all three criteria and can be continued, because of the relatively high cash balance, consideration should be given to transferring unneeded cash to the general fund.

**Special School
Lunch Fund
Section 296-44, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	289,713
Receipts		11,940,461
Expenditures		11,501,911
Ending Balance	\$	728,263

Recommendation: Repeal and budget through the general fund.

This fund was created in 1960 to support the expense of operating the public school cafeterias. The fund continues to serve its original purpose—it supports the school food services program providing breakfast and lunch to students in the public schools. Students pay regular or reduced prices for these meals, and receipts from cafeteria sales are deposited into the fund. Therefore, the benefits sought are linked to charges made upon users. The fund, however, does not meet the third criterion of being self-sustaining. The program is supported heavily by general fund appropriations, which have been increasing in recent years. For FY1990-91, the program received \$15,643,110 to cover personnel and other operating costs. The fund therefore should be repealed, and the school food services program budgeted entirely through the general fund.

**Special Summer
School Fund
Section 298-3.5, HRS****FINANCIAL DATA FOR FY1990-91**

Beginning Balance	\$	711,521
Receipts		3,036,671
Expenditures		1,952,966
Ending Balance	\$	1,795,226

Recommendation: Continue.

The original purpose of this fund, created in 1971, was to finance the operation of the public summer schools. The fund continues to serve the purpose for which it was originally created. There is a direct link between the benefits sought and the charges made upon the users because students who attend summer school are charged a tuition. The fund is self-sustaining. Annually, tuition rates are developed based on expected costs of the summer school program. Tuition for 1991 summer school was set at \$125 to cover program costs. The fund meets all three criteria and should be continued.

**Storeroom
Revolving Fund
Section 296-36.5,
HRS****FINANCIAL DATA FOR FY1990-91**

Beginning Balance	\$	729,826
Receipts		2,127,469
Expenditures		2,331,307
Ending Balance	\$	525,988

Recommendation: Repeal and budget through the general fund.

This fund was created in 1990. The original purpose of this fund was to purchase educational, office, and custodial supplies commonly used by the schools and to purchase equipment and services needed to operate the Department of Education's storeroom. Prior to the creation of the fund, the storeroom operated entirely with general fund appropriations. The fund continues to serve the purpose for which it was originally created—school supplies purchased for the storeroom are used by the department. There is a direct link between the benefits sought and the charges made upon the users because the public schools pay for the items they purchase. However, the storeroom is not self-sustaining. Schools pay only the invoice cost of supplies plus delivery charges. General fund appropriations pay for personnel and all other operating costs of the storeroom. The fund therefore should be repealed and the purchase of storeroom supplies budgeted through the general fund.

**Use of School
Facilities Special
Fund
Section 298-23, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	736,540
Receipts		585,991
Expenditures		717,807
Ending Balance	\$	604,724

Recommendation: Continue.

This fund was created in 1982 to collect fees and charges from those who use school buildings, facilities, grounds, and equipment for recreational and community purposes. The fund continues to serve the purpose for which it was originally created. Fees and charges for the use of facilities are placed in the fund and expenditures are limited to payment of custodial services, replacement of custodial and janitorial supplies, and the repair, maintenance and replacement of equipment used. The link between the benefits sought and the charges made upon the users is direct. Those who use school facilities are assessed fees and charges which are deposited into the fund. The fund covers all of the costs relating to the use of school facilities by the public and therefore is self-sustaining. The fund meets all three criteria and should be continued.

Chapter 6

Department of Health

This chapter presents our findings and recommendations on each of eleven special and revolving funds administered by the Department of Health. Five funds are special funds and six are revolving funds. The Underground Storage Tank Financial Responsibility Guarantee Fund was not active and was repealed in 1991. Therefore, it is not included in this review.

The funds are discussed in alphabetical order. For each we make a recommendation for disposition, present the purpose of the fund, and give the basis for our recommendation. We evaluate neither the program nor its management, nor do we assess whether or not the program should be continued. Our focus is on the appropriateness of a special or revolving fund being the means of financing a particular program or activity.

Summary of Recommendations

Environmental Response Revolving Fund. Repeal and budget through the general fund.

Epidemic Control Fund. Repeal.

Facility Administration Fund. Repeal and budget through the general fund.

Hawaii Registered Nurse Student Loan Fund. Continue.

Public Health Facility Special Funds. Repeal and budget through the general fund.

Revolving Fund for Group Homes for Recovering Substance Abusers. Repeal.

Revolving Fund for Home Health Services. Repeal and budget through the general fund.

Revolving Fund for Kalaupapa Store. Repeal and budget through the general fund.

Special Fund for the Community Services for the Developmentally Disabled. Repeal and budget through the general fund.

Special Fund for Waimano Training School and Hospital. Repeal and budget through the general fund.

Water Pollution Control Revolving Fund. Continue.

Environmental Response Revolving Fund Section 128D, HRS

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	156,777
Receipts		12,776
Expenditures		104,299
Ending Balance	\$	65,254

Recommendation: Repeal and budget through the general fund.

This fund was created in 1988 and capitalized with a general fund appropriation of \$150,000. The original purpose was to create a fund in which to deposit assessments, court settlements, and awards resulting from unlawful release of hazardous substances. Moneys in the fund were to be used by the department to respond quickly to emergencies created when hazardous substances were released into the environment. In 1991, the original purpose was broadened by statute to allow the department to use the fund to clean up existing, non-emergency, hazardous substance releases. The list of sources of funds was expanded to include penalties for violating rules on vehicular smoke emission, open burning, water pollution, noise control, solid waste pollution, hazardous waste disposal, under ground storage tanks, and used oil disposal. The fund continues to serve the purpose for which it was intended—it is used to clean up hazardous substance releases. However, there is only minimal linkage between charges upon those who release hazardous substances and the cost of cleaning up the release. Only awards, assessments, or penalties imposed on those actually responsible for the releases are linked to the cost of cleaning up those releases. The other penalties and fines assessed for violating any number of other environmental pollution rules often have no linkage to hazardous release clean-up. Further, the fund is not self-sustaining. Revenues of the fund consist primarily of the \$150,000 general fund appropriation and interest earned thereon. During the biennium ended June 30, 1991, the only other receipts were assessments of \$4,622 received in 1991. The fund therefore does not meet the second and third criteria and should be repealed and the program budgeted through the general fund.

Epidemic Control Fund

Section 325-6, HRS

Recommendation: Repeal.

This special fund was created in 1941 but has never been activated. Its original purpose was to control, suppress, or prevent the spread of communicable and preventable diseases in the Territory of Hawaii. It has never served the purpose for which it was originally created. This fund therefore should be repealed.

Facility Administration Fund

Section 323-73, HRS

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	720,448
Receipts		15,012,395
Expenditures		2,792,025
Transfers		(12,479,796)*
Ending Balance	\$	461,022

*To the public health facilities special funds.

Recommendation: Repeal and budget through the general fund.

This fund was created in 1989 to assess fees of the state-operated community hospitals in the Division of Community Hospitals. The fees were to be used to defray the general administrative costs of the division office and to help support those hospitals that do not generate enough revenues to cover their own operating expenses. The fund continues to serve its original purpose—the department assesses an administrative fee upon each hospital and provides supplemental moneys to those hospitals needing them. There is a direct link between the benefits sought and the charges made upon the users because the hospitals pay fees to cover central administrative costs and provide funds to facilities that need them. Expenditures are for division office operating costs and transfers are to hospitals in need of additional operating funds. General fund augmentation to support the division administration is provided when the need arises. The division received a general fund appropriation of \$165,000 in FY1990-91. As currently operated, the division office is not planned to be self-sustaining and has received general fund appropriations of \$2.3 million in FY1991-92 and \$2.5 million for FY1992-93. The fund clearly does not meet the third criterion. It should be repealed and operations of the division budgeted through the general fund.

**Hawaii Registered
Nurse Student
Loan Fund
Section 321-25,
HRS****FINANCIAL DATA FOR FY1990-91**

Beginning Balance	\$	0
Receipts		250,000
Expenditures		20,144
Ending Balance	\$	229,856

Recommendation: Continue.

This fund was created in 1990 to fund a registered nurse student financial support program. The receipts are from a general fund appropriation of \$250,000 in seed money for the program. The program has received an additional general fund appropriation of \$200,000 for the 1991-93 fiscal biennium. The program is intended to provide loans to qualified students pursuing careers as nurses. No loans may be granted after June 30, 1995, and the fund is to sunset on June 30, 2000. Unencumbered cash balances are to be lapsed to the general fund at that time. The loans may be forgiven at the rate of 20 percent of the outstanding balance for each year that graduates work as nurses in the state. The program has not yet begun operations. Expenditures were for partial payment on a \$50,000 consultant contract to develop rules for the program. The draft of the administrative rules indicate the program will operate as intended. The linkage will be direct—those who receive the financial support will be required to return the benefit received, either by payments of cash or by working as a nurse in the state. The third criterion of self-sustainability is not likely to be met, but to achieve the purpose of the program, a special fund is a feasible funding alternative to annual general fund appropriations. This special fund should be allowed to continue.

**Public Health
Facility Special
Funds
Section 323-73, HRS****FINANCIAL DATA FOR FY1990-91**

Beginning Balance	\$	7,019,251
Receipts		116,261,843
Expenditures		133,402,933
Transfers		12,479,796*
Ending Balance	\$	2,357,957

*From the facility administration fund.

Recommendation: Repeal and budget through the general fund.

These funds were created in 1971. Their original purpose was to account for the receipts and expenses of each of the state-operated hospitals in the Division of Community Hospitals. Each of the 13 facilities is accounted for in a separate fund. The transfers consist of fees assessed against each hospital's special fund that are deposited centrally into the division's administration fund, then redistributed among the hospitals as the needs arise. The funds continue to serve the purpose for which they were originally created, with receipts and expenditures of the facilities being accounted for in these funds. There is a direct link between the benefits sought and the charges made upon the users because those who receive care from the health facilities are charged for services provided. The funds, however, are not self-sustaining. The hospitals have needed general fund augmentation. They received general fund appropriations of \$8.2 million in FY1989-90 and \$23.7 million in FY1990-91. Although the special funds altogether had a year-end cash balance of \$2.3 million, the hospitals also had several million dollars of unpaid obligations outstanding. General fund appropriations will be \$22.2 and \$23.8 million for FY1991-92 and FY1992-93, respectively. The special funds therefore should be repealed and the hospitals, as currently operated, should be budgeted for through the general fund.

**Revolving Fund
for Group Homes
for Recovering
Substance
Abusers
Section 334-14, HRS**

Recommendation: Repeal.

This fund has never been used since it was established by the department in August 1990. The original purpose of this fund was to comply with federal requirements in order to obtain federal funds to be used to provide loans to cover the costs of housing for groups of recovering substance abusers. The state was required by federal law to establish a fund directly or under contract to a nonprofit entity in order to qualify for federal funds. The department has contracted with a nonprofit corporation to establish and administer the required fund, and a state revolving fund is no longer needed. We therefore recommend that the fund be repealed.

**Revolving Fund
for Home Health
Services
Section 321-93, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	46,435
Receipts		7,694
Expenditures		18,149
Ending Balance	\$	35,980

Recommendation: Repeal and budget through the general fund.

This fund was created in 1966. The original purpose was to support a home health services program administered by the Department of Health. The fund continues to serve the purpose for which it was created. The department provides nursing care and other therapeutic services in patients' homes on Molokai and Lanai. The relationship between the benefits sought and the charges made upon the users is direct because patients who receive services are charged fees which are then deposited into the fund. However, the fund is not self-sustaining. The program is heavily supported by annual general fund appropriations. General fund support pays for 90 percent of the personnel costs and other operating costs. The fund therefore should be repealed and the program budgeted through the general fund.

**Revolving Fund
for Kalaupapa
Store
Section 326-27, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	87,644
Receipts		204,620
Expenditures		206,809
Ending Balance	\$	85,455

Recommendation: Repeal and budget through the general fund.

This fund was created in 1915 with a \$10,000 appropriation to operate and maintain the Kalaupapa Store. The goods were to be made available to the residents of Kalaupapa at "landed cost" in Honolulu. Department policy also allows the public to purchase goods at the store. The fund continues to serve the purpose for which it was originally created. There is a direct link between the benefits sought and the charges made upon the users because those who purchase goods from the store are charged for the goods. The program, however, is not self-sustaining. For FY1990-91, receipts of \$204,620 consisted of \$160,000 from general fund appropriations and \$44,620 in sales receipts. General fund appropriations are required annually to purchase the store inventory, and to pay for operations and maintenance costs. The fund therefore does not meet the third criterion and should be repealed. The department should budget for the expenses of the store through the general fund.

Special Funds Established for Title XIX Funds Collected under Section 333F-17.5, HRS

These funds were created in 1990. The original purpose was to account for deposits and expenditures of Title XIX funds collected for providing services to the developmentally disabled. Title XIX funds consist of state and federal matching funds. No charges are assessed those who receive services. Two funds have been established under Section 333F-17.5, HRS—one for the community services for the developmentally disabled and the other for the Waimano Training School and Hospital.

Special Fund for the Community Services for the Developmentally Disabled

Recommendation: Repeal and budget through the general fund.

This fund has not had any activity since its creation in 1990 because the first Medicaid payments to be deposited into the fund are still being processed. The fund will be used to provide support for pre-admissions screening services for mentally retarded persons being placed in nursing homes. The fund therefore will serve the purpose for which it was originally intended. There is, however, no link between the benefits sought and the charges made upon the users because those who receive services do not pay for them. Instead, services are to be paid entirely by state and federal funds. The fund therefore does not meet the second criterion and should be repealed and budgeted through the general fund.

Special Fund for Waimano Training School and Hospital

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	0
Receipts		588,024
Expenditures		309,973
Ending Balance	\$	278,051

Recommendation: Repeal and budget through the general fund.

The fund serves the purpose for which it was created. It is used to support day program services for mentally retarded and developmentally disabled persons living in the community. There is, however, no link between the benefits sought and the charges made upon the users because those who receive services do not pay for them. Instead, services are paid entirely by state and federal funds. The fund therefore does not meet the second criterion and should be repealed, and the program budgeted through the general fund.

**Water Pollution
Control Revolving
Fund
Section 342D-54, HRS**

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	52,661,182
Receipts		4,173,194
Expenditures		3,666,649
Ending Balance	\$	53,167,727

Recommendation: Continue.

This fund was created in 1988 to comply with federal requirements and to provide loans for the planning, design, and construction of public wastewater treatment facilities. In 1991, the state law was amended to allow the fund to be used for providing grants in addition to loans. The fund continues to serve its original and current purpose. Public Law 100-4 provides for grants to capitalize a state revolving fund. Pursuant to the federal law, the State is required to establish and maintain a revolving fund in order to qualify for federal capitalization grants. Because this fund is required in order to qualify for federal funds, we recommend that the fund be continued.

Chapter 7

Department of Human Services

This chapter presents our findings and recommendations on each of five revolving funds administered by the Department of Human Services, including the Hawaii Housing Authority (HHA). The funds are discussed in alphabetical order. For each we make a recommendation for disposition, present the purpose of the fund, and give the basis for our recommendation. We evaluate neither the program nor its management, nor do we assess whether or not the program should be continued. Our focus is on the appropriateness of a special or revolving fund being the means of financing a particular program or activity.

Summary of Recommendations

Blind Shop Revolving and Handicraft Fund. Continue.

Housing for Elders Revolving Fund. Continue.

Housing Revolving Fund. Continue.

Revolving Fund for Workshop or Home Labor Purposes for Welfare Recipients. Repeal.

Teachers' Housing Revolving Fund. Continue.

Blind Shop Revolving and Handicraft Fund Section 347-12, HRS

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	92,141
Receipts		754,456
Expenditures		807,969
Ending Balance	\$	38,628

Recommendation: Continue.

This fund was created in 1941. The original purpose was to deposit the receipts from the sale of products made by the blind in their homes or in workshops and to pay for the materials and labor. The fund continues to serve the purpose for which it was created. There is a direct link between the benefits sought and the charges made upon the users because those persons creating the products support the costs of the activity through the sale of their products. The fund is self-sustaining. Labor and material costs are paid out of the sales receipts. The fund therefore meets the three criteria and should be continued.

Housing for Elders Revolving Fund Section 359-53, HRS

Recommendation: Continue.

This fund was created in 1976. However, it had no financial data for FY1990-91. The fund was transferred from the Housing Finance and Development Corporation to the HHA in 1990 and became active on July 1, 1991. The original purpose of the fund was to support the management, operation, and maintenance of housing for the elderly. The fund is serving its intended purpose. The fund supports two elderly housing projects, Hale Poai and Laiola. Because tenants are charged rental and other fees for residency in these projects, there is a link between the benefits sought and the charges made to users. Revenues of the fund are currently sufficient to fully support the management, operations, and maintenance of elderly housing projects. This fund therefore meets all three criteria and should be continued.

Housing Revolving Fund Section 359-13, HRS

FINANCIAL DATA FOR FY1990-91

Beginning Balance	\$	959,354
Receipts		2,538,599
Expenditures		1,863,726
Ending Balance	\$	1,634,227

Recommendation: Continue.

This fund was created in 1947. Its original purpose was to support the activities of the Hawaii Housing Authority in the development and administration of public housing. The fund continues to serve the purpose for which it was created. It is being used to collect rents and fees to pay for the administration of the authority's rental housing projects for low income families. There is a direct link between the benefits sought and the charges made upon the users because tenants are charged rental and other fees for residency in these projects. The program is essentially self-sustaining. Although some general fund appropriations have been made to fund major repairs, ongoing operating expenses are paid from rental revenues. The fund therefore meets all three criteria and should be continued.

**Revolving Fund for
Workshop or Home
Labor Purposes for
Welfare Recipients
Section 346-9, HRS****Recommendation: Repeal.**

This fund was created in 1941 to support the employment of welfare recipients in workshops or in their homes. The department has never activated the fund and has no plans to do so. The fund therefore should be repealed since it has never served its purpose.

**Teachers' Housing
Revolving Fund
Section 359-2, HRS****FINANCIAL DATA FOR FY1990-91**

Beginning Balance	\$	280,126
Receipts		214,982
Expenditures		293,628
Ending Balance	\$	201,480

Recommendation: Continue.

This fund was created in 1969 to support the development and administration of housing for teachers of the Department of Education. Teacher housing was to be provided only in areas that did not have adequate housing at reasonable cost. The fund continues to serve the purpose for which it was created. It is used for the operation and maintenance of teacher housing on the neighbor islands. Since teachers are charged rent for their housing, there is a direct link between the benefits sought and the charges made upon the users. The fund is self-sustaining. Rent payments cover all operating costs. Thus, the fund meets all of the criteria and should be continued.

Notes

Chapter 2

1. Hugh J. Reber, *State Special Funds: A Background Study of Criteria*, Griffenhagen-Kroeger, Inc., San Francisco, California, 1961, p. i.
2. General Accounting Office of the United States, *Revolving Funds: Full Disclosure Needed for Better Congressional Control*, a report to the House Committee on the Budget, Washington, D.C. GA1.13:PAD-77-25, p. 86.
3. Act 320, SLH 1957.
4. The Public Administration Service, *Special Funds and Budget Administration in the Territory of Hawaii: A Survey Report*, Chicago, 1959.
5. Ibid., p. 18.
6. Based upon data collected from Ho'ike searches.
7. Section 263, Act 316, SLH 1989.
8. Memorandum to All Department Heads from Governor John Waihee, Subject: Fiscal Year 1992 Budget Execution Policies and Instructions, August 29, 1991.
9. Hawaii, Legislative Auditor, *Hawaii Constitutional Convention Studies, 1978, Article VI: Taxation and Finance*, Honolulu, Hawaii, 1978, pp. 20-21.
10. Marcia Y. Sakai, "Special Funds," *Tax Review Commission Working Papers and Consultant Studies*, Honolulu, Hawaii, v. 2, December 1989, pp. 31-40.
11. The National Conference of State Legislatures, *Earmarking State Taxes*, Second Edition, Denver, Colorado, 1990, pp. 13-16.
12. Ibid., p. 21.

Responses of the Affected Agencies

Comments on Agency Responses

We transmitted a draft of this review to the Departments of Commerce and Consumer Affairs, Education, Health, and Human Services on January 3, 1992. Act 240 also requires that we submit a draft to the Department of Budget and Finance for its review. A copy of the transmittal letter to the Department of Commerce and Consumer Affairs is included as Attachment 1. Similar letters were sent to the other departments. The responses from the Departments of Commerce and Consumer Affairs, Education, Health, and Budget and Finance are included as Attachments 2, 3, 4, and 5, respectively. The Department of Human Services did not respond.

The Department of Commerce and Consumer Affairs agrees with all of our recommendations except one. It believes that the Insurance Examiner's Revolving Fund should not be repealed because the situation has changed since our review, and the fund is now being used as intended.

The Department of Education (including the State Public Library System) concurs fully with six of our recommendations, concurs in part with one, and does not concur with three. Although it agrees that the School Special Fees Special Fund should be continued, it does not concur that unneeded cash in the fund should be transferred to the general fund. It states that the year-end balance is a result of collections made at the end of the preceding school year which will be expended in September. However, if that were so year after year, expenditures for any year would have approximated the cash balance of the prior year end. This was not the case. In 1991 expenditures of the fund were \$250,000 less than the June 30, 1990 cash balance and the cash balance at June 30, 1991 had increased to about two times the 1991 receipts. With respect to the department's disagreement on the recommendations to repeal three other funds, the department's position is based principally on the arguments that the programs need the flexibility of special or revolving funds and without them, there is no incentive to adjust fees to cover costs.

The Department of Health concurs with most of our recommendations. It disagrees with our recommendation that the Environmental Response Revolving Fund be repealed and the program budgeted through the general fund. It believes the fund should be continued to demonstrate its need. It would have preferred the application of broader criteria and programmatic consideration. This, however, was not our charge. The department also disagrees that the Facility Administration Fund and the

Public Health Facility Special Funds should be repealed, and that the operations of the Community Health Division should be budgeted through the general fund. In part the department points out that this might cause the statutory general fund expenditure ceiling to be exceeded, and that dependence on general fund support eliminates incentives to collect moneys due the State. The hospital system, however, *as currently operated*, has continued to need large infusion of general fund cash to cover its deficits.

The Department of Budget and Finance acknowledged our findings and comments. The department restated its position that program evaluations need to be performed to determine whether the programs are meeting their legislatively mandated purposes, and only then can judgments be made as to whether special or revolving funds are still warranted.

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawaii 96813



ATTACHMENT 1

(808) 548-2450
FAX: (808) 548-2693

New numbers as of 12-01-91
(808) 587-0800
FAX: (808) 587-0830

January 3, 1992

C O P Y

The Honorable Robert A. Alm
Director
Department of Commerce and Consumer
Affairs
1010 Richards Street
Honolulu, Hawaii 96813

Dear Mr. Alm:

Enclosed are three copies, numbered 6 through 8, of our draft report, *Review of Special and Revolving Funds of the Departments of Commerce and Consumer Affairs, Education, Health, and Human Services*. The special and revolving funds in your department are discussed in Chapter 4. We ask that you telephone us by Tuesday, January 7, 1992, on whether you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than Monday, February 3, 1992.

The Directors of the Departments of Health and Human Services, the Superintendent of Education, the Governor, and presiding officers of the two houses of the Legislature have also been provided copies of this draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

Marion M. Higa
Acting Auditor

Enclosures

ATTACHMENT 2

JOHN WAIHEE
GOVERNOR



STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
1010 RICHARDS STREET
P. O. BOX 541
HONOLULU, HAWAII 96809

ROBERT A. ALM
DIRECTOR

SUSAN DOYLE
DEPUTY DIRECTOR

January 29, 1992

Ms. Marion M. Higa
Acting Auditor
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813

RECEIVED
FEB 3 11 25 AM '92
OFC. OF THE AUDITOR
STATE OF HAWAII

Dear Ms. Higa:

The Department of Commerce and Consumer Affairs appreciates the opportunity to review and respond to the recommendations of the Report on our Special and Revolving Funds. We believe these funds represent appropriate and workable methods to fund governmental activity. The basic support provided by your report was, therefore, very encouraging.

On all of the following funds, the recommendation was to continue and we, therefore, have no comment:

Commissioner's Education and Training Fund
Condominium Management Education Fund
Contractors Education Fund
Public Broadcasting Revolving Fund
Real Estate Education Fund

On all of the remaining funds, the report makes some recommendation for change and our comments to each recommendation follow.

Cable Television Fund: "Continue by Consider Reducing Fees."

We agree and because the fees are set by rule, we can and will make the necessary adjustments. The income for this fund is based on the revenues of cable television companies and the

Ms. Marion M. Higa
January 29, 1992
Page 2

fund balance has increased as cable rates have increased. We have been prepared to adjust these fees but had hoped to avoid potential litigation with the cable industry over the definition of "gross revenues" which is pivotal to this process. If we are unable to resolve it soon, we will proceed.

Compliance Resolution Special Fund: "Continue but Consider Changing the Fee Structure."

We agree with this recommendation and this is a fund we monitor regularly to assure that the balances will meet the needs of the enforcement program. We expect to be making fee adjustments by rule in the summer of 1992.

Insurance Examiner's Revolving Fund: "Repeal and Budget Through the General Fund."

This is the only recommendation with which we disagree. We do not, however, disagree with the Auditor's specific comments but rather believe that the situation has changed since the year which was audited (FY 1990-91).

First and most importantly, while we did not use the fund as designed in its early days, we are doing so today. In the initial period, we found ourselves unable to process payments to our contract examiners quickly enough and thus opted for the direct payment mechanism noted in the report. That has since changed and payments are now being processed through the fund. We, therefore, believe that it would, if reviewed based on today's practices, be found to merit continuation.

Second, we are currently being reviewed for accreditation as an insurance regulatory program. One of the most likely areas of deficiency is the adequacy of staffing. The examiner's revolving fund, and its cadre of contract examiners which can be expanded as needed, represent one of our few sources of flexibility to meet these national standards. We would, therefore, urge that no change be made in this structure until accreditation is worked out and long-term staffing needs are addressed.

Ms. Marion M. Higa
January 29, 1992
Page 3

**Special Fund for Deposit of Special Handling Fees for
Certification of Documents: "Continue but Consider Changing
Fee Structure."**

We agree with this recommendation in theory, though we are also mindful of advice which we have received from the Legislature that we not make the fee so insignificant as to undermine the special handling program. We will also be looking for additional ways to improve service to those who make use of the special handling program.

Again, we appreciate the basic understanding shown in the report of these funds and their operations and believe that all of the issues raised in the report either have been addressed or will be addressed in the near future.

Very truly yours,



ROBERT A. ALM
Director

RAA:kh



STATE OF HAWAII
DEPARTMENT OF EDUCATION

P. O. BOX 2360
HONOLULU, HAWAII 96804

January 27, 1992

RECEIVED

JAN 30 8 25 AM '92

OFF. OF THE AUDITOR
STATE OF HAWAII

OFFICE OF THE SUPERINTENDENT

MEMO TO: Ms. Marion M. Higa, Acting Auditor

F R O M: Charles T. Toguchi, Superintendent of Education

SUBJECT: Comments on the Report Prepared by the Legislative Auditor Titled: REVIEW OF SPECIAL AND REVOLVING FUNDS OF THE DEPARTMENTS OF COMMERCE AND CONSUMER AFFAIRS, EDUCATION, HEALTH, AND HUMAN SERVICES

We have some serious reservations about the recommendations contained in the report. Of the 9 recommendations affecting DOE, we concur with 5, and do not concur with the other 4. We will discuss each special fund recommendation separately.

1. **Adult education special fund:** Lapse balance to the general fund, and budget through the general fund.

DOE comments: We **do not concur** with the auditor's recommendation. At present, the special funds make up only 5 percent of the total expenditure of the adult education program. However, we do not believe the special fund should be abolished and the total program supported from the general fund. Presently, the general fund covers the costs of all programs to do with citizenship training, basic education, and courses leading to a high school diploma. All special interest courses such as French cooking, ukulele playing, etc. are self-financed. If there are sufficient numbers of students to pay for the salary of the instructor, the course is provided. If all special interest courses are paid by the general fund, the schools would have no incentive to adjust the tuition charges or collect the tuitions since the revenues do not accrue to the school. Also, it is difficult to predict with accuracy the enrollment demand for special interest courses statewide. At present, by using the special fund, the schools have sufficient flexibility to offer the course anytime there is sufficient demand. Under general fund financing, the schools will be severely restricted by the general fund appropriation. The present system works well. We should leave it alone.

2. **Driver education special fund:** Repeal and budget through the general fund.

DOE comments: We concur with the auditor's recommendation. The driver education program is financed from fees collected by the insurance commissioner from motor vehicle insurers. Such fees could be deposited into the state treasury as general revenues. The program might be better funded through the general fund.

3. Lahainaluna Boarding School special fund: Continue.

DOE comments: We concur with the auditor's recommendation.

4. School priority fund: Repeal.

DOE comments: We concur with the auditor's recommendation. The name "school priority fund" is actually the official title of a general-funded program. DOE never established a special fund for this program. If there is a state law to establish a special fund for this program, then it is not needed. The special fund can be deleted.

5. School special fees special fund: Continue but consider transferring unneeded cash to the general fund.

DOE comments: We concur with the auditor's recommendation to continue the special fund. However, we do not concur that the year-end balance should be transferred to the general fund. The reason why there is a large year-end balance in this special fund is because the collections for lost books, equipment and supplies are made at the end of the school year just before school closes. After the funds are collected, only a small portion is spent before the fiscal year ends. Most of the expenditures occur when school reopens in September. This is why there is a large year-end balance. But this balance is needed to replace the books and equipment that are lost or damaged. It does not mean the state should confiscate the funds because the school does not spend the monies immediately upon receipt.

6. Special school lunch fund: Repeal and budget through the general fund.

DOE comments: We do not concur with the auditor's recommendation. At present, the special fund finances only 25 percent of the cost of the school food services program. However, if the special fund is abolished and the program funded totally from the general fund, there would be no incentive for the schools or DOE to raise lunch fees and bring it in line with the costs of the meals. Without the relationship between lunch fees and financing of the program, the state could eventually end up paying for a larger and larger share of the costs. Also, at present, the school food services program serves other programs with meals or snacks including the elderly and the afterschool A+ program. These persons or programs are charged the cost of the meals or snacks. Without the

special fund, it would be difficult to enter into contractual arrangements with other agencies to provide food services. In these instances, the special fund serves as a depository for the revenue collected.

7. Special summer school fund: Continue.

DOE comments: We concur with the auditor's recommendation. At present, the state general fund pays the tuition of needy students, and also provides a subsidy for small communities that have a difficult time supporting summer school programs. Other than these two instances, summer session is self-financing. The course is provided only if there is a sufficient number of students to cover the cost of the program. The special fund is needed and should be continued.

8. Storeroom revolving fund: Repeal and budget through the general fund.

DOE comments: We do not concur with the auditor's recommendation. The storeroom needs a revolving fund because it is in the business of buying supplies from vendors and selling to schools. The revolving fund is merely an accounting convenience. Without the revolving fund, it would be difficult for the storeroom to operate as it does: as a middleman serving the needs of the schools. The storeroom allows the schools to purchase most of their basic supplies from one vendor, the storeroom, rather than having to shop all over town looking for the best buy on each type of school supply. Also, the storeroom sorts and packs the supplies in such a way that it is easy for the schools to distribute to their grade levels or departments. Lastly, the storeroom makes sure everything is shipped during the summer so that the instructional programs are ready when school opens in September. This special fund is needed and should be continued.

9. Use of school facilities special fund: Continue.

DOE comments: We concur with the auditor's recommendation. The schools rent their facilities to community groups. The rent monies collected are used to replenish the custodial supplies, repair the equipment, or refurbish the schools. This special fund is serving the purpose for which it was established. It should be continued.

We thank you for the opportunity to react to your recommendations.

CTT:sts

cc: Business Office
Budget Branch



STATE OF HAWAII
DEPARTMENT OF EDUCATION
HAWAII STATE PUBLIC LIBRARY SYSTEM

465 SOUTH KING STREET, B-1
HONOLULU, HAWAII 96813

OFFICE OF THE STATE LIBRARIAN

February 3, 1992

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OFC. OF THE AUDITOR
STATE OF HAWAII

Memorandum

To: The Honorable Marion M. Higa, Acting Auditor
Office of the Auditor

From: Bartholomew A. Kane
State Librarian

Subject: Library Special Fund

A handwritten signature in cursive script, reading "John L. Penabazco".

The Hawaii State Public Library System concurs with your recommendation to continue the special funds.

The only item that the library system is commenting on concerns the special fund allotment. The library system recognizes that \$350,000 allotment for the special fund is not sufficient. HSPLS original requested \$400,000 for each year of the biennium. Thus, for Fiscal Year 1993, the library system has submitted a request in the supplemental budget to increase to the special fund allotment from \$350,000 to \$600,000.

If there are any questions, please have your staff contact Edwin Kajiwara at 586-3695.

BAK:EK

JOHN WAIHEE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH

P. O. BOX 3378
HONOLULU, HAWAII 96801
FAX - 548-3263

JOHN C. LEWIN, M.D.
DIRECTOR OF HEALTH

In reply, please refer to:
File:

February 3, 1992

Ms. Marion M. Higa
Acting Auditor
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813

RECEIVED
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OFC. OF THE AUDITOR
STATE OF HAWAII

Dear Ms. Higa:

Thank you for giving us the opportunity to review and respond to your draft report, Review of Special and Revolving Funds of the Departments of Commerce and Consumer Affairs, Education, Health, and Human Services. We asked each of the programs responsible for the ten special or revolving funds to comment on the findings and recommendations. The funds reported on include:

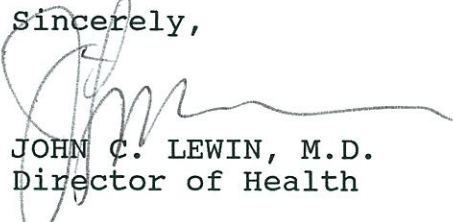
1. **Environmental Response Revolving Fund:** The program felt that this should be continued as a revolving fund to demonstrate its need (see Attachment A).
2. **Epidemic Control Fund:** The program concurs with the recommendation only based on its inactivity. It maintains that recent events may, however, support its continuation (see Attachment B).
3. **Facility Administration Fund & Public Health Facility Special Funds:** The program disagrees that this should be converted exclusively to general funds. Further explanation is provided in Attachment C.
4. **Revolving Funds for Group Homes for Recovering Substance Abusers:** The program has no comment to the recommendation for its repeal.
5. **Revolving Fund for Home Health Services:** The program concurs with recommendation to fund these services with general funds under HTH 570--Public Health Nursing Services.

Ms. Marion M. Higa
February 3, 1992
Page Two

6. **Revolving Fund for Kalaupapa Store:** Conditional concurrence from the program explains its use and need to exist in Attachment D.
7. **Special Fund for the Community Services for the Developmentally Disabled & Special Fund for Waimano Training School and Hospital:** The program while not objecting to budget for its use under general fund has some concerns over the inadequacy of general fund dollars and underutilization of Federal dollars for this population (see Attachment E for further discussion).
8. **Water Pollution Control Revolving Fund:** Since the recommendation is to continue this fund, the program had no comments.

We hope that you and the Legislature will consider concerns raised in our response. Once again, we appreciate the opportunity to comment on your report.

Sincerely,



JOHN C. LEWIN, M.D.
Director of Health

JOHN WAIHEE
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH

P. O. BOX 3378
HONOLULU, HAWAII 96801

January 17, 1992

In reply, please refer to:
HEER OFFICE
sf-revol

To: Valerie Ako, Chief
Administrative Services Office

Through: Bruce S. Anderson, Ph.D. *BA*
Deputy Director for Environmental Health

From: J. Mark Ingoglia, M.P.H., Manager
Office of Hazard Evaluation and Emergency Response

Subject: Comments on the Office of the Auditor's Report on
Revolving Funds

These comments are in response to the Office of the Auditor's analysis of the Environmental Response Revolving Fund, found on p. 24 of the report.

In the context of the report's narrow review criteria, the report provides a reasonable assessment of the fund. The report itself acknowledges that its review of the fund was limited to three criteria. However, we believe that it is inappropriate to evaluate the Environmental Response Revolving Fund based on these three criteria alone. Further, we believe that a fair assessment of the fund would include programmatic considerations that were purposely avoided in this analysis.

The primary weakness of the report is its severely narrow scope. The report in no way addresses considerations and needs that are peculiar to the program.

Fundamental to both the federal and state Superfund laws are their powerful liability and cost-recovery provisions. By allowing the government to recover costs for the cleanup of the releases of hazardous substances, the Superfund laws force people to recognize that the Responsible Parties will eventually pay for that damage. In order to ensure that this potential liability is not just a hollow threat, the program must have the ability to conduct cleanup with its own moneys. At both the federal and state levels, legislative bodies determined that this goal could best be met through the establishment of a revolving fund.

Superfund is designed to provide swift response to both emergency releases and spills of hazardous substances, as well as long-term remediation of significant sites. The need for a standing source of money is clear for emergency situations. What is less immediately apparent is the need for a separate fund for remedial, or longer-term, actions. In the case of a long-term response action, why wouldn't we simply rely on legislative appropriations? With a revolving fund, the program is granted more consistent access to response moneys, but more importantly, each large site does not become a political battleground. A separate fund ensures that the Legislature is not burdened with the analysis and review of each specific cleanup action.

Further, the existence of a separate revolving fund also acts as an incentive for Responsible Parties to cooperate with the government. A major goal of the Superfund program is to encourage participation of Responsible Parties in the remediation process. Even despite this, many Responsible Parties historically have actively tried to hinder the government's attempts to gain information and clean up a site. By having a separate fund of money, Responsible Parties understand that they can only challenge the government in court, but not in an appropriations battle as well.

There is also an educational component of the liability provisions that would be weakened if the Superfund was eliminated. On the federal level, they have found that the existence of a separate fund increases this deterrent value. The existence of a separate fund reinforces the idea that "the polluter pays."

None of these issues specific to the Superfund program were addressed in the Legislative Auditor's report. The Auditor's report is a freeze-frame analysis of the fund based on three criteria. Unfortunately, because the report did not evaluate any programmatic considerations, the report was even limited in the analysis of these three criteria.

For example, the report criticized the fund as not being financially self-sustaining. However, the report does not acknowledge that the program currently has no implementing regulations. The lack of administrative rules clearly limits the program's ability to recover moneys for deposit into the fund. Additionally, the program has been acting with a large shortage of staff. Only within the last year has the program been able to hire the 4 On-scene Coordinators needed to respond to the worst spill sites. The program is actively training these On-scene

Valerie Ako, Chief ASO
January 17, 1992
Page 3

Coordinators, drafting administrative rules, as well as developing cost-recovery and enforcement procedures, but some consideration should be given to the relative youth of the program. The program has been in existence for less than 5 years. The program is actively addressing these fundamental needs. Concurrently, as staff are trained and rules and procedures are established, the State will have greater ability and expertise to enforce cost recovery.

The last issue we would like to comment on deals with the report's criticism of the fund for not reflecting a clear link between the benefit sought and the charges made upon the users or beneficiaries of the program. The criticism was focused on the fund's acceptance of penalties and fines assessed under other, non-Superfund, environmental regulations. We acknowledge that a fine tuning of the fund's sources would be needed to fully address this issue. However, the report brushes by the fact that the fund is also financed by cost-recovery from Superfund cleanups and violations. Rather than challenge the very existence of the fund, we believe it would have been more useful and appropriate for the report to have recommended how the fund's sources should be modified to meet the report's second criterion for the fund.

JMI:CH:ch

c: Bob Rhein, PHAO
Environmental Resources Office

2. Epidemic Control Fund, Section 325-6, HRS

Recommendation: Repeal.

Comment: The department concurs.

Concurrence, however, is based on the inactivity of Epidemic Control Fund, accordingly the fund's ability to meet review criteria has never been demonstrated. Recent events relating to the control of communicable diseases provide support of its continuation.

There is need for a special fund to be used to respond to situations involving communicable diseases which existing programs cannot accommodate. This fund would be used in situations when action requires coordination of public and private sectors, which fall outside of program development, to curb the trend of a communicable disease.

One such example for use of this fund would be to purchase hepatitis B vaccine at the lower government cost because the disease rates in Hawaii reflect the need to provide universal public health action. Our existing immunization program presently provides immunization for the indigent and medically indigent. Routine immunizations for others are usually covered through the private sector.

A recent study, however, indicates that the hepatitis B rates in Hawaii (3 times higher than the U.S. mainland) reflect a need to provide hepatitis B immunization universally to the public. The department's limitations of serving only the indigent or medically indigent allows services to eligible people, but does not allow providing a similar offer to those being served by private medical care providers. Normally, the series for hepatitis B immunization is quite expensive, so financial adjustments would enable better financial incentives for a private sector patient to be immunized. The DOH can purchase the vaccine in bulk for a lower unit cost than can a private physician. The savings can, in turn, be passed on to the patient in one of two ways. The DOH can provide the vaccine at immunization clinics coordinated by the physician; the physician would charge administration cost and DOH would coordinate reimbursement through the health insurance. Another way would be for the physician to purchase vaccine through the DOH which would still be cheaper than if they were to purchase it individually. This purchase would then be reimbursed back into the special fund.

Hepatitis B infections can lead to chronic hepatitis, cirrhosis, and liver cancer. Providing hepatitis B immunization for the community now can prevent susceptible

people from becoming infected with the virus. This will prevent them from developing the chronic liver disease of hepatitis B which could lead to liver cancer.

The Department of Health is also beginning a statewide universal immunization program for children whereby all routine immunizations, including hepatitis B, will be government purchased and distributed to the private sector. Health insurance companies would contribute to this program by depositing monies saved into a special fund.

Besides its use for immunizations, the department has made a commitment to provide some assistance to HIV-infected individuals, through their physicians. One of these commitments is to provide drugs for treatment, on a sliding scale. Use of this fund would allow this mechanism to be established.

PUBLIC HEALTH FACILITY SPECIAL FUNDS

We do not agree that Special Funds should be deleted solely on the basis that the community hospitals are not self-sufficient. In 1974 the General Fund made up approximately one-third of the hospitals' cash requirement. This amount was reduced to approximately eight percent in FY 88. The current General Fund requirement, including expected deficit financing, is twenty-four percent. The Special Funds in 1974 amounted to approximately \$28 million, compared to \$130 million in the current FY.

With the growth of public community hospitals in Hawaii, the incentives provided by the use of Special Funds has motivated the hospitals to maximize revenues from other than the General Fund to cover the rapidly escalating costs of operations.

We do not recommend converting exclusively to General Funds for the following reasons:

1. If the total operational budget were General Funded, this would increase dependence on those funds from 24 to 100 percent [additional \$140 million GF], thus affecting the statutory ceiling.

2. A complete dependence upon State General Funds would eliminate incentives on the part of community hospitals to maximize revenues through collection efforts, to cover operational costs.

3. It is quite clear that if we are to move toward more financially viable public hospitals, we must remove all vestiges of dependence upon the State government, i.e. General Fund.

4. If we were to convert to General Funding exclusively, we would lose the existing statutory authority for contingencies which can provide for meeting unexpected emergencies. This is a critical component in the health care industry that cannot delay in life-death situations.

7. Revolving Fund for Kalaupapa Store, Section 326-27, HRS

Auditor's Recommendation: Repeal and budget through the general fund.

Comments: The department concurs with the recommendation.

Concurrence is conditional upon available general funding to adequately operate the Kalaupapa Store. In FY 1990-91 the store generated \$44,620 of sales receipts not related to patient ration credits.

The Kalaupapa general fund and store revolving fund accounts are closely related and tied to available barge services in July and September to purchase bulk supplies for a year's operation in the first quarter of the fiscal year (barge service to this isolated community is available only twice a year in July and September).

The Store account is not sufficient to permit purchase of a year's supply of goods for resale during the first quarter. The Store sells its stock inventory primarily to patient residents of the Settlement and over a year gradually recovers the cost of purchase from proceeds of sales receipts.

The problem of an insufficient capital account is resolved by advancing from the Kalaupapa general fund account the amount needed to purchase merchandise for the fiscal year's store inventory. The advance is provided by the general fund budgeted line item for ration credits for patients.

Rations for patients are based on \$45/week/patient (there are about 90 patients on the Kalaupapa registry). Ration credits are provided for the patients to purchase merchandise at the Kalaupapa Store. Ration credits are the bulk of proceeds of sales receipts. To insure that ration payments for the year will be equal to or in excess of the advance, amounts requested are targeted conservatively.

JOHN WAIHEE
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
DEVELOPMENTAL DISABILITIES DIVISION
741-A SUNSET AVENUE
HONOLULU, HAWAII 96816

January 24, 1992

In reply, please refer to:
File:

TO: Valerie Ako, Chief, ASO
THROUGH: Geri Marullo, Deputy Director, PHSA *gm* JAN 24 1992
FROM: Stanley Yee, Chief, DDD *SY*
SUBJECT: Legislative Auditor's Report on Special and Revolving Funds

We don't object to the dissolution of the DD Special funds provided that the legislature can guarantee the provision of general funds to operate programs. We will commit to reimbursing the State federal dollars as much as possible. We have concerns that without the special fund mechanism, we might be discouraged from seeking grants and expend general funds as match for innovative/demonstration grant projects. The RFP for such federal proposals does not follow the State funding cycle. We have been fortunate to have general fund provisos that allowed conversion of general fund as match for federal dollars. However, the dilemma arises, when awarded federal share fund are given to us there will be no vehicle to capture the federal monies and expend for program expansion. This special fund mechanism would have made that possible. Also with the dissolution of the special funds, there may be added cost in capturing and dispersing funds, which the special fund circumvent.

We suggest correction to Special Fund figures for Waimano on page 28. Based on Waimano's records the financial data for FY 90-91 is as follows:

Beginning Balance	\$ -0-
Receipts	588,024
Expenditure	<u>374,250</u>
Ending Balance	\$213,774

Again, we do not oppose special fund dissolution as long as the legislature can guarantee general funds for existing and program expansion that could come through federal participation.



EMPLOYEES' RETIREMENT SYSTEM
HAWAII INC
HAWAII PUBLIC EMPLOYEES HEALTH FUND
HOUSING FINANCE AND DEVELOPMENT
CORPORATION
OFFICE OF THE PUBLIC DEFENDER
PUBLIC UTILITIES COMMISSION

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
STATE CAPITOL
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL PLANNING AND POLICY
DEVELOPMENT DIVISION
INFORMATION AND COMMUNICATION
SERVICES DIVISION
TREASURY OPERATIONS DIVISION

February 7, 1992

Ms. Marion Higa
Acting Auditor
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813

RECEIVED
FEB 10 1 20 PM '92
OFF. OF THE AUDITOR
STATE OF HAWAII

Dear Ms. Higa:

The Department of Budget and Finance has reviewed the draft report relating to the review of special and revolving funds of the Departments of Commerce and Consumer Affairs, Education, Health, and Human Services. We have reviewed your recommendations relating to each department's special and revolving funds, and acknowledge your findings and comments.

The policy of the Department of Budget and Finance involving special and revolving funds is based on each program's uniqueness and ability to generate sufficient revenues from its beneficiaries to sustain the operations of the program. We believe that in order to conduct a thorough review and assessment of the funds, an evaluation of whether the programs are meeting their legislatively mandated purpose is essential, in order to determine the continuation of the special or revolving funds.

Thank you for the opportunity to comment on the report.

Sincerely,

Yukio Takemoto
YUKIO TAKEMOTO

A BILL FOR AN ACT

RELATING TO STATE SPECIAL AND REVOLVING FUNDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 240, Session Laws of Hawaii 1990, directed
2 the legislative auditor to perform a comprehensive evaluation of
3 the State's special and revolving funds administered under
4 various agencies of the State to determine whether these funds
5 should be continued, modified, or repealed. Act 240 expressed
6 concern over the State's ability to maintain the integrity of the
7 state budgetary process during times of uncertainty or when
8 fluctuations in the economy affect general fund reserves.

9 Special and revolving funds receive and expend revenues
10 directly without regard to the State's overall fiscal condition;
11 thereby eliminating the normal role of the legislature in the
12 process of budgetary review. Act 240 declared that it was
13 fiscally prudent to examine the feasibility of maintaining,
14 modifying, or repealing these funds in light of the difficulties
15 the State may face during uncertain times in the future.

16 The purpose of this Act is to carry out the findings and
17 recommendations of the legislative auditor with respect to the
18 special and revolving funds administered under the departments of
19 education, health, human services, and commerce and consumer

1 affairs.

2 PART I.

3 SPECIAL AND REVOLVING FUNDS

4 UNDER THE

5 DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

6 SECTION 2. Section 440G-15, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§440G-15 Annual fees. (a) Each cable operator shall pay
9 an annual fee to be determined by the director. [A portion of
10 the] The fees so collected under this section shall be used to
11 offset the costs of administering this chapter.

12 (b) The director shall adjust the fees assessed under this
13 section, as necessary from time to time, to ensure that the gross
14 proceeds collected do not surpass the annual operating costs of
15 the program."

16 SECTION 3. Section 26-9, Hawaii Revised Statutes, is
17 amended by amending subsection (o) to read as follows:

18 "(o) Every person licensed under any chapter subject to
19 section 26H-4, other than chapter 468, and every person licensed
20 subject to chapter 485 shall pay upon issuance of a license,
21 permit, certificate, or registration a fee [of \$10] and a
22 subsequent annual fee [of \$10, which] to be determined by the

1 director and adjusted from time to time to ensure that the
2 proceeds, together with all other fines, income, and penalties
3 collected under this section, do not surpass the annual operating
4 costs of conducting compliance resolution activities required
5 under this section. The fees may be collected biennially or
6 pursuant to rules adopted under chapter 91 and which shall be
7 deposited into the special fund established under this
8 subsection. Every filing pursuant to chapter 514E or section
9 485-6(15) shall be assessed, upon initial filing and at each
10 renewal period, where a renewal is required, a fee which shall be
11 prescribed by rules adopted under chapter 91 and which shall be
12 deposited into the special fund established under this
13 subsection. Any unpaid fee shall be paid by the licensed person,
14 upon application for renewal, restoration, reactivation, or
15 reinstatement of a license, and by the person responsible for the
16 renewal, restoration, reactivation, or reinstatement of a
17 license, upon the application for renewal, restoration, or
18 reinstatement of the license. If the fees are not paid, the
19 director may deny renewal, restoration, reactivation, or
20 reinstatement of the license. The director may establish,
21 increase, decrease, or repeal the fees when necessary pursuant to
22 rules adopted under chapter 91.

1 There is created in the state treasury a special fund to be
2 expended by the director's designated representatives as provided
3 by this subsection. Notwithstanding any law to the contrary, the
4 moneys in the fund shall consist of annual fees collected under
5 this subsection and section 514A-95 and penalties or fines
6 assessed as a result of action brought by department personnel
7 and penalties or fines or reimbursement of costs or attorneys
8 fees assessed as a result of actions brought for violations of
9 chapters 480 and 487. Any law to the contrary notwithstanding,
10 the director may use the moneys in the fund to employ, without
11 regard to chapters 76 and 77, hearings officers, investigators,
12 attorneys, accountants, and other necessary personnel. The
13 moneys in the fund may be used to train such personnel as the
14 director finds necessary and for any other activity related to
15 compliance resolution.

16 As used in this subsection, unless otherwise required by the
17 context, "compliance resolution" means a determination of
18 whether:

- 19 (1) Any licensee or applicant under any chapter subject to
20 section 26H-4, other than chapter 468, has complied
21 with that chapter;
22 (2) Any person subject to chapter 485 has complied with

that chapter; or

(3) Any person submitting any filing required by chapter 514E or section 485-6(15) has complied with chapter 514E or section 485-6(15);

(4) Any person has complied with the prohibitions against unfair and deceptive acts or practices in trade or commerce.

The director shall prepare and submit an annual report to the governor and the legislature on the use of the compliance resolution fund. This subsection shall be repealed effective July 1, 2001."

SECTION 4. Section 431:2-307, Hawaii Revised Statutes, is amended to read as follows:

"§431:2-307 [Insurance examiners revolving fund. (a) The commissioner may establish a separate fund designated as the insurance examiners revolving fund.

(b) The funds shall be used to compensate independent contractor examiners. Independent contractor examiners may be reimbursed or compensated for:

(1) Actual travel expenses in amounts customary for such expenses and approved by the commissioner;

(2) A reasonable living expense allowance at a rate

1 customary for such expenses and approved by the
2 commissioner; and

3 (3) Per diem compensation at a rate customary for such
4 compensation as approved by the commissioner.

5 (c) The funds may also be used to reimburse insurance
6 division staff examiners for the following expenses necessarily
7 incurred on account of an examination and the examiners'
8 education and training:

9 (1) Actual travel expenses in amounts customary for such
10 expenses and approved by the commissioner;

11 (2) A reasonable living expense allowance at a rate
12 customary for such expenses and approved by the
13 commissioner; and

14 (3) Any fee or tuition necessary to attend educational and
15 training conferences, workshops, seminars, and any
16 similar event of this nature.

17 (d) The funds may also be used for other expenses relating
18 to examinations of insurance companies.

19 (e) All persons receiving any reimbursement or compensation
20 from the insurance examiners revolving fund shall submit to the
21 commissioner for approval a detailed account of all expenses and
22 compensation necessarily incurred. Persons shall not receive or

1 accept any additional emolument on account of an examination. In
2 the case of an examination, any reimbursement or compensation
3 made by the fund and approved by the commissioner shall be
4 charged to the person being examined by the commissioner and all
5 receipts shall be credited to the fund.

6 (f) Moneys in the insurance examiners revolving fund shall
7 not revert to the general fund.

8 (g) Each authorized insurer shall deposit at a time
9 determined by the commissioner the sum of \$200 with the
10 commissioner to be credited to the insurance examiners revolving
11 fund.] Reimbursement and compensation of examiners; source of
12 funds; disposition of receipts. (a) All moneys necessary for
13 the compensation and reimbursement of independent contractor
14 examiners and insurance division staff examiners for actual
15 travel expenses, reasonable living expenses, and per diem
16 expenses, at customary rates approved by the commissioner shall
17 be allocated by the legislature through appropriations out of the
18 state general fund. The department shall include in its
19 budgetary request for each upcoming fiscal period, the amounts
20 necessary to effectuate the purposes of this section.

21 (b) Each authorized insurer shall deposit at a time
22 determined by the commissioner the sum of \$200 with the

1 commissioner for deposit into the state general fund.

2 (c) All moneys, fees, and other payments received by the
3 commissioner under this part shall be deposited to the credit of
4 the state general fund."

5 SECTION 5. Section 415-128, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§415-128 Fees for filing documents and issuing**
8 **certificates.** The following fees shall be paid to the director
9 upon the filing of corporate documents:

- 10 (1) Articles of incorporation, \$50;
- 11 (2) Articles of amendment, \$25;
- 12 (3) Restated articles of incorporation, \$25;
- 13 (4) Articles of merger or consolidation, \$100;
- 14 (5) Articles of merger (subsidiary corporation), \$50;
- 15 (6) Articles of dissolution, \$25;
- 16 (7) Annual report of domestic and foreign corporations
17 organized for profit, \$15;
- 18 (8) Filing any other statement or report, except an annual
19 report, of a domestic or foreign corporation, \$25;
- 20 (9) Application for a certificate of authority, \$50;
- 21 (10) Application for a certificate of withdrawal, \$25;
- 22 (11) Reservation of corporate name, \$10;

- 1 (12) Transfer of reservation of corporate name, \$10;
2 (13) Good standing certificate, \$15;
3 (14) Special handling fee for review of corporation
4 documents, excluding articles of merger or
5 consolidation, \$40;
6 (15) Special handling fee for review of articles of merger
7 or consolidation, \$100;
8 (16) Special handling fee for certificates issued by the
9 department, \$10 per certificate;
10 (17) Special handling fee for certification of documents, \$1
11 per page.

12 All special handling fees shall be credited to the special
13 fund established for use by the department in expediting the
14 processing of documents. At least two temporary business
15 registration assistant I positions shall be paid out of the
16 special fund.

17 The director shall adjust the fees assessed under this
18 section, as necessary from time to time, through rules adopted
19 under chapter 91 to ensure that the proceeds, together with all
20 other receipts of the special fund under this section do not
21 surpass the annual operating costs of the program."

PART II.

SPECIAL AND REVOLVING FUNDS UNDER
THE DEPARTMENT OF EDUCATION

SECTION 6. Section 301-4, Hawaii Revised Statutes, is amended to read as follows:

"§301-4 Financing adult and community education program.

The financial support for this program shall be [in part from fees collected from students enrolled, and in part] from public funds appropriated by the legislature out of the proceeds of the state general fund for this purpose. Fees collected from students enrolled in adult and community education programs shall be set in accordance with the recommendations of the advisory council, and shall be deposited to the credit of the state general fund. Fees under this section may be collected from students regularly enrolled; provided that:

- (1) Adults registered with the department of labor and industrial relations and unemployed shall be granted free enrollment in such courses as will tend to assist such persons in securing employment;
- (2) Adults certified by the department of human services as indigent may be enrolled on a nonfee basis in classes that will tend to assist such persons in becoming self-sustaining;

(3) Discharged veterans who are entitled to federal educational assistance shall be enrolled upon authorization of the Department of Veterans [Administration] Affairs and fees shall be charged against federal funds in accordance with Department of Veterans [Administration] Affairs contract regulations;

(4) Administrative and supervisory costs, costs of instruction, and all other necessary expenses not covered by fees and other authorized charges shall be paid for out of funds appropriated for this purpose.

The department shall include in its budgetary request for each upcoming fiscal period, the amounts necessary to effectuate the purposes of the adult and community education program.

SECTION 7. Section 299-1, Hawaii Revised Statutes, is amended to read as follows:

"§299-1 Driver education. (a) The department of education may establish and administer a motor vehicle driver education and training program to be conducted at each public high school in the State after regular school hours, on Saturdays, and during the summer recess.

(b) The department shall, for the purpose of this section:

(1) Set the prerequisites and priorities for enrollment in

the course of driver education and training which shall be open to every resident of the State who is fifteen years of age or older and under nineteen years of age;

(2) Establish the requirements for and employ necessary instructors, who are certified to have completed satisfactorily an approved instructor's course, to conduct the course in driver education and training;

(3) Issue a certificate of completion to every student upon satisfactory completion of the course in driver education and training;

(4) Purchase, rent, or acquire by gift materials and equipment necessary for the program established by this section; and

(5) Cooperate with the chief of police in each county in promoting traffic safety.

(c) The department may [promulgate] adopt rules [and regulations,] in conformance with chapter 91 necessary for the purposes of this section and section 299-2.

(d) All moneys received by the department of education under section 431:10C-115 which remain unencumbered and unexpended at the end of each fiscal year shall lapse to the credit of the state general fund."

SECTION 8. Section 312-3.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The fund shall be administered by the state librarian who shall, [after consultation with] unless otherwise directed by the library advisory committee, [determine the annual amount, based on the balance in the fund as of the first day of the fiscal year, that each public library shall receive.] disburse to each public library, the amount commensurate with the moneys received from the library under section 312-3.5 over the previous fiscal period. Allocations shall be made in quarterly installments within thirty days of the end of each calendar quarter."

SECTION 9. Section 296D-1, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~296D-1~~] School priority [fund;] program~~ established. (a) There is established within the department of education a school priority [fund which shall be used] program to augment regular instruction and other educational services at the discretion of the individual public schools. Further, it is the intent of the legislature that the school priority [fund be used to] program promote the equitable distribution of educational resources statewide, [to] strengthen the scope of decision making

1 and increase flexibility in resource allocation at the school
2 level, and [to] provide a systematic method of conforming
3 resource allocation to the unique needs and priorities of
4 individual schools.

5 (b) All moneys to carry out the purposes of the school
6 priority program under this chapter shall be allocated by the
7 legislature through appropriations out of the state general fund.

8 (c) The department shall include in its budgetary request
9 for each upcoming fiscal period, the amounts necessary to
10 effectuate the purposes of this chapter."

11 SECTION 10. Section 296D-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[[]§296D-2[[]] Definitions. As used in this chapter:

14 "Enrollment" means the number of students registered in the
15 regular public schools, with each regular student and each
16 special student being counted as one[;].

17 "Moneys" means funds which are not committed to positions[;
18 and].

19 ["School priority fund" includes moneys which may be
20 appropriated and allotted separately for elementary schools and
21 for secondary schools, and appropriated instructional resource
22 augmentation positions which shall be allotted for the elementary

1 schools.]"

2 SECTION 11. Section 296D-3, Hawaii Revised Statutes, is
3 amended by amending subsection (a) to read as follows:

4 "(a) The superintendent of education shall allot the moneys
5 of the school priority [fund] program to the school districts
6 based on enrollment. In the allotment of positions to the
7 districts, the superintendent shall calculate each district's
8 entitlement based on enrollment and shall deploy or redeploy
9 positions beginning September, 1983, such that each district will
10 be provided with its full entitlement of positions by September,
11 1985."

12 SECTION 12. Section 295D-5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§296D-5 Departmental controls. The superintendent shall
15 develop and implement appropriate planning procedures and
16 follow-up accountability reports, without regard to chapter 91,
17 to ensure sound planning, control, and accountability in the use
18 of moneys allocated by the legislature to the school priority
19 [fund.] program. The procedures and reports, however, shall
20 recognize the need for providing the schools latitude and
21 discretion to determine their needs and priorities, and shall
22 avoid imposing undue amounts of paperwork and administrative

1 burdens on the schools.

2 The department shall submit an annual report to the
3 legislature which shall include but not be limited to an
4 accounting of how funds were used by the schools."

5 SECTION 13. Section 298-5, Hawaii Revised Statutes, is
6 amended by amending subsection (f) to read as follows:

7 "(f) Special fees and charges collected from pupils who
8 negligently break, damage, lose, or destroy school books,
9 equipment, or supplies shall be deposited in a fund and expended
10 by the department under such rules adopted pursuant to chapter
11 91. All unexpended and unencumbered moneys remaining on balance
12 in the fund at the close of each fiscal year which are deemed, by
13 the director of finance, to be in excess of the moneys necessary
14 to carry out the purposes of this subsection over the next
15 following fiscal year shall lapse to the credit of the state
16 general fund."

17 SECTION 14. Section 296-44, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§296-44 School cafeterias; funds; expenditures; cafeteria**
20 **division.** All moneys received by or for the public school
21 cafeterias from the sale of meals, the sale of services, or from
22 the federal government or from any other source shall be

1 deposited [in one special school lunch fund; and except as
2 otherwise provided by the legislature, all expenditures for the
3 operation of public school cafeterias shall be made from this
4 fund.] to the credit of the state general fund. All moneys to
5 carry out the purposes of this section shall be allocated by the
6 legislature through appropriations out of the state general fund.
7 The department shall include in its budgetary request for each
8 upcoming fiscal period, the amounts necessary to effectuate the
9 purposes of this section.

10 It is the intent of this section not to jeopardize the
11 receipt of any federal aid and to the extent, and only to the
12 extent necessary to effectuate this intent, the governor may
13 modify the strict provisions of this section, but shall promptly
14 report any such modification with the governor's reasons therefor
15 to the next succeeding session of the legislature for review.

16 The governor may create a division within the department of
17 education to carry out the cafeteria functions and programs."

18 SECTION 15. Section 296-36.5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[[§296-36.5]] Department of education storeroom[;
21 revolving fund]. There shall be a storeroom established by the
22 department of education to provide schools a source for commonly

1 used educational, office, and custodial supplies. [There is
2 established a revolving fund to be known as the "storeroom
3 revolving fund," into which shall be deposited the receipts from
4 charges made to schools for the supplies and cost of issuing such
5 supplies from the storeroom and transfers from other accounts or
6 funds. Receipts and transfers deposited into the storeroom
7 revolving fund may be expended to purchase educational, office,
8 and custodial supplies, and equipment and services needed to
9 operate the storeroom. Balances in excess of \$400,000 at the end
10 of each fiscal year shall lapse into the general fund.] All
11 moneys to purchase commonly used educational, office, and
12 custodial supplies shall be allocated by the legislature through
13 appropriations out of the state general fund. The department
14 shall include, in its budgetary request for each upcoming fiscal
15 period, the amounts necessary to effectuate the purposes of this
16 section. All receipts from charges made to schools for the
17 supplies from the storeroom shall be deposited to the credit of
18 the state general fund."

19 **PART III.**

20 **SPECIAL AND REVOLVING FUNDS**

21 **UNDER THE DEPARTMENT OF HEALTH**

22 **SECTION 16.** Section 128D-1, Hawaii Revised Statutes, is

1 amended by amending the definition of "fund" to read as follows:

2 ""Fund" means the [environmental response revolving] state
3 general fund."

4 SECTION 17. Section 128D-2, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "\$128D-2 Environmental response [revolving fund. (a)

7 There is created an environmental response revolving fund within
8 the department which shall consist of moneys appropriated to the
9 fund by the legislature, moneys paid to the fund as a result of
10 departmental compliance proceedings, moneys paid to the fund
11 pursuant to court-ordered awards or judgments, moneys paid to the
12 fund in court-approved or out-of-court settlements, all interest
13 attributable to investment of money deposited in the fund, and
14 moneys allotted to the fund from other sources; provided that
15 when deposits of fines and penalties pursuant to sections
16 342B-11.5, 342D-39, 342F-11.5, 342H-10.5, 342J-10.5, 342L-11.5,
17 and 342N-9.5 exceed \$3,000,000, that amount of deposited fines
18 and penalties in excess of \$3,000,000 shall be transferred to the
19 general fund.] program; source of funds; disposition of receipts
20 (a) All moneys to meet the general operating needs and expenses
21 of the department under this chapter shall be allocated by the
22 legislature through appropriations out of the state general fund.

1 The department shall include in its budgetary request for each
2 upcoming fiscal period, the amounts necessary to effectuate the
3 purposes of this chapter.

4 (b) Moneys allocated by the legislature from the fund shall
5 be expended by the department for response actions, including
6 removal and remedial actions, consistent with this chapter.

7 (c) All moneys paid to the department as a result of
8 departmental compliance proceedings, court-ordered awards or
9 judgments, court-approved or out-of-court settlements, and all
10 other fines, receipts, and payments shall be deposited to the
11 credit of the state general fund."

12 SECTION 18. Section 128D-8, Hawaii Revised Statutes, is
13 amended by amending subsection (d) to read as follows:

14 "(d) Civil penalties collected under this chapter shall be
15 paid to the department for deposit into the [revolving] fund and
16 may be recovered in a civil action in a court of competent
17 jurisdiction where the violation is alleged to have occurred."

18 SECTION 19. Section 128D-13, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[[]§128D-13[[]] **Reporting requirements.** The department
21 shall submit to the legislature an annual report, including a
22 comprehensive budget to implement remedial action plans requiring

1 funding by the [environmental response revolving] fund. This
2 report shall identify those sites eligible for remedial action
3 under CERCLA, including a statement as to any appropriation that
4 may be necessary to pay the State's share of the plan."

5 SECTION 20. Section 128D-19, Hawaii Revised Statutes, is
6 amended by amending subsection (d) to read as follows:

7 "(d) A petitioner who is liable under this chapter may
8 recover the petitioner's reasonable costs of compliance with the
9 order from the fund, [or, if there are not sufficient moneys in
10 the fund to satisfy the claims, then from the State,] to the
11 extent that the petitioner can demonstrate, on the administrative
12 record, that the director's decision in selecting the action
13 ordered was arbitrary and capricious or was otherwise not in
14 accordance with the law. Reimbursement awarded under this
15 subsection shall include all costs incurred by the petitioner
16 pursuant to the order. If only a portion of the order is found
17 to be arbitrary and capricious or otherwise not in accordance
18 with law, reimbursement awarded under this paragraph shall
19 include all costs incurred by the petitioner pursuant to the
20 portions of the order found to be arbitrary and capricious or
21 otherwise not in accordance with the law."

22 SECTION 21. Section 342B-11.5, Hawaii Revised Statutes, is

1 amended to read as follows:

2 "[[]§342B-11.5[[]] Disposition of collected fines and
3 penalties. Fines and penalties collected under sections 342B-9
4 and 342B-11 shall be deposited [into the environmental response
5 revolving fund established by section 128D-2.] to the credit of
6 the state general fund."

7 SECTION 22. Section 342D-39, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[[]§342D-39[[]] Disposition of collected fines and
10 penalties. Fines and penalties collected under this part shall
11 be deposited [into the environmental response revolving fund
12 established by section 128D-2.] to the credit of the state
13 general fund."

14 SECTION 23. Section 342F-11.5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[[]§342F-11.5[[]] Disposition of collected fines and
17 penalties. Fines and penalties collected under sections 342F-9
18 and 342F-11 shall be deposited [into the environmental response
19 revolving fund established by section 128D-2.] to the credit of
20 the state general fund."

21 SECTION 24. Section 342H-10.5, Hawaii Revised Statutes, is
22 amended to read as follows:

1 "[]§342H-10.5[] Disposition of collected fines and
2 penalties. Fines and penalties collected under sections 342H-9
3 and 342H-10 shall be deposited [into the environmental response
4 revolving fund established by section 128D-2.] to the credit of
5 the state general fund."

6 SECTION 25. Section 342J-10.5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[]§342J-10.5[] Disposition of collected fines and
9 penalties. Fines and penalties collected under sections 342J-9
10 and 342J-10 shall be deposited [into the environmental response
11 revolving fund established by section 128D-2.] to the credit of
12 the state general fund."

13 SECTION 26. Section 342L-11.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[]§342L-11.5[] Disposition of collected fines and
16 penalties. Fines and penalties collected under sections 342L-10
17 and 342L-11 shall be deposited [into the environmental response
18 revolving fund established by section 128D-2.] to the credit of
19 the state general fund."

20 SECTION 27. Section 342N-9.5, Hawaii Revised Statutes, is
21 amended to read as follows:

22 "[]§342N-9.5[] Disposition of collected fines and

1 penalties. Fines and penalties collected under sections 342N-8
2 and 342N-9 shall be deposited [into the environmental response
3 revolving fund established by section 128D-2.] to the credit of
4 the state general fund."

5 SECTION 28. Section 325-6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§325-6 Epidemic control [fund]. Such appropriations as
8 may be [provided] necessary for the purpose of controlling,
9 suppressing, or preventing the spread of any communicable or
10 preventable disease in the State or in any county thereof shall
11 be [immediately deposited in the treasury in a special fund to be
12 known as the "epidemic control fund."] allocated by the
13 legislature out of the proceeds of the state general fund. The
14 department shall include in its budgetary request for each
15 upcoming fiscal period, the amounts necessary to effectuate the
16 purposes of this section.

17 Whenever the department of health certifies that any
18 communicable or preventable disease is present to such an extent
19 that the usual facilities and personnel of the department are not
20 adequate to properly control, suppress, or prevent the spread of
21 the disease, [withdrawals] expenditures may be made [from the
22 epidemic control fund] by the department, with the approval of

1 the governor, for use, in whatever manner the department may deem
2 necessary, in controlling, suppressing, or preventing the spread
3 of any such disease. [All the withdrawals shall be upon warrants
4 of the comptroller of the State on vouchers properly approved by
5 the director of health.]"

6 SECTION 29. Section 323-73, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[[]§323-73[] Establishment of special funds. (a) Any
9 other law to the contrary notwithstanding, each public health
10 facility shall place its revenues and all other moneys collected
11 or acquired or made available for the use of that facility into a
12 special fund to be used for the payment of its lawful operating
13 expenditures. At the beginning of each quarterly allotment
14 period, the director shall assess from each hospital special fund
15 an amount equal to two per cent of the moneys in the hospital
16 special fund and shall deposit those amounts into the facility
17 administration fund established in subsection (b). At the end of
18 each quarterly allotment period, the director shall transfer all
19 moneys remaining in a hospital special fund not required for
20 lawful operating expenditures of the hospital for that quarterly
21 allotment period into the facility administration fund
22 established in subsection (b); provided that those public health

1 facilities which do not receive general fund augmentation may
2 retain up to twenty-five per cent of their unrequired special
3 fund revenues in their respective hospital special funds for
4 payment of their lawful operating expenditures. The director
5 shall determine the percentage which a public health facility not
6 supported by general funds may retain in its hospital special
7 fund. The amounts the director is authorized to transfer shall
8 include all unrequired special fund balances from prior years.

9 (b) There is established within the department of health a
10 special fund to be known as the facility administration fund
11 which shall be used to defray the general administrative costs of
12 the division and to provide supplemental funds to those public
13 health facilities which do not have sufficient moneys in their
14 special funds to cover their required lawful operating
15 expenditures, including contingencies for correcting hospital
16 deficiencies cited by agencies which monitor and evaluate the
17 division. In the event the balance in the fund at the end of any
18 fiscal year exceeds ten per cent of the expenditures of all the
19 public health facilities for that fiscal year, the funds in
20 excess of ten per cent of the expenditures shall be transferred
21 by the director to the general fund. The director may also
22 transfer funds from this fund to the general fund at any time

1 pursuant to section 37-53.

2 (c) The director shall submit an annual report to the
3 legislature, twenty days prior to the convening of each regular
4 session, which identifies all fund balances and ceiling increases
5 in the various hospital and facility funds, the transfers and
6 expenditures made from the funds, and the purposes of the
7 expenditures.] Division of community hospitals; funds;
8 assistance to public health facilities. (a) All moneys to cover
9 the general administrative and operating costs of the division of
10 community hospitals shall be allocated by the legislature through
11 appropriations out of the state general fund.

12 (b) All moneys to support those public health facilities
13 that do not have sufficient moneys to cover their operating
14 expenditures, including contingencies for correcting hospital
15 deficiencies cited by agencies which monitor and evaluate the
16 division, shall be allocated by the legislature, through the
17 division of community hospitals, out of appropriations from the
18 state general fund.

19 (c) The department shall include in its budgetary request
20 for each upcoming fiscal period, the amounts necessary to
21 administer and operate the division of community hospitals and to
22 support public health facilities requiring assistance.

(d) All moneys received by the division from any other source shall be deposited to the credit of the state general fund."

SECTION 30. Section 334-14, Hawaii Revised Statutes, is amended to read as follows:

"[[]§334-14[] Revolving fund for group homes for recovering substance abusers. There is established a revolving fund to make loans for the cost of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than four individuals. Funds deposited in this revolving fund shall be expended in accordance with Public Law 100-690, section 2036 or any subsequent related laws. All moneys withdrawn from the fund for such purpose shall be reimbursed or restored thereto, so far as may be, out of moneys received or collected from the loans made through this fund and shall then be available for further use.]

Group homes for substance abusers; source of funds; disposition of receipts. (a) All moneys to make loans for the establishment of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than four individuals, shall be allocated by the legislature through appropriations out of the state general fund.

(b) The department shall include in its budgetary request for each upcoming fiscal period, the amounts necessary to effectuate the purposes of this section.

(c) All moneys received from other funding sources, including but not limited to federal sources, or in repayment of loan principal, payment of interest, or fees, under this section shall be deposited to the credit of the state general fund."

SECTION 31. Section 321-93, Hawaii Revised Statutes, is amended to read as follows:

"§321-93 [Revolving fund. There is appropriated out of the general revenues of the State the sum of \$15,000 as a revolving fund, to be expended by the department of health for the purposes of this part. All moneys received by the department for services rendered under this part shall be deposited into the fund.] Home health services; source of funds; disposition of receipts. (a) All moneys to provide ancillary paramedical services, professional nursing care, physiotherapy, occupational therapy, speech and hearing therapy, medical social services, and home health aide services under the home health services program shall be allocated by the legislature through appropriations out of the state general fund.

(b) The department shall include in its budgetary request

1 for each upcoming fiscal period, the amounts necessary to
2 effectuate the purposes of this part.

3 (c) All moneys received by the department from charges and
4 fees for services rendered under this part shall be deposited to
5 the credit of the state general fund."

6 SECTION 32. Section 326-27, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§326-27 [Revolving fund for Kalaupapa store. To enable
9 the department of health to operate and maintain the Kalaupapa
10 store, situated at Kalaupapa, Molokai, \$10,000 is appropriated as
11 a special fund to be deposited in the state treasury and to be a
12 continual deposit, subject to the control of the department
13 through its director, to be used from time to time in operating
14 and maintaining the Kalaupapa store. All moneys withdrawn from
15 the fund for such purposes shall be reimbursed or restored
16 thereto, so far as may be, out of any moneys received or
17 collected from the sales made in the Kalaupapa store and shall
18 then be available for further use.] Kalaupapa store; loans for
19 operation and maintenance. (a) All moneys to enable the
20 department of health to operate and maintain the Kalaupapa store,
21 situated in Kalaupapa, Molokai, shall be allocated by the
22 legislature through appropriations out of the state general fund.

(b) The department shall include in its budgetary request for each upcoming fiscal period, the amounts necessary to effectuate the purposes of this section.

(c) All moneys received in reimbursement of payments made under this section shall be deposited to the credit of the state general fund."

SECTION 33. Section 333F-17.5, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~333F-17.5~~] Authority to establish specific funding.~~
The department is authorized to establish and administer special funds for the deposit and expenditure of earned Title XIX funds collected for community program services provided under this chapter in order to maximize the use of federal funds for services to the developmentally disabled.] Disposition of Title XIX funds. All earned Title XIX funds collected for community program services under this chapter shall be deposited to the credit of the state general fund."

PART IV.

SPECIAL AND REVOLVING FUNDS

UNDER THE

DEPARTMENT HUMAN SERVICES

SECTION 34. Section 346-9, Hawaii Revised Statutes, is

1 amended to read as follows:

2 "§346-9 [Revolving fund. The director of finance shall set
3 up, out of any moneys appropriated for the purposes of this
4 chapter, a revolving fund not to exceed in amount the sum of
5 \$10,000. This fund may be used by the department of human
6 services for workshop purposes or home labor purposes for the
7 welfare recipients or others who, in the opinion of the
8 department, will be benefited by the experience, and all moneys
9 in the fund may be expended for materials, machinery, and other
10 facilities and for the erection, operation, and conduct of the
11 workshops, and for the payment of such compensation, as the
12 department may authorize. All proceeds derived from sale of
13 products of the workshops or the home labor shall be deposited in
14 the fund. This section shall be subject to any federal policies,
15 rules or regulations, which may be applicable in order to obtain
16 federal aid or the cooperation of any federal agency concerned.]
17 Workshop program. (a) All moneys to fund workshop or home labor
18 activities for welfare recipients or other persons who, in the
19 opinion of the department, would benefit from the experience, and
20 all moneys for the purchase of materials, machinery, and other
21 facilities and for the erection, operation, and conduct of the
22 workshops, and for the payment of compensation, as the department

1 may authorize, shall be allocated by the legislature through
2 appropriations out of the state general fund.

3 (b) The department shall include in its budgetary request
4 for each upcoming fiscal period, the amounts necessary to
5 effectuate the purposes of this section.

6 (c) All moneys received from other funding sources,
7 including federal sources and all moneys derived from the sale of
8 products of the workshops or home labor shall be deposited to the
9 credit of the state general fund."

10 SECTION 35. If any provision of this Act, or the
11 application thereof to any person or circumstance is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act which can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 36. Statutory material to be repealed is bracketed.
17 New statutory material is underscored.

18 SECTION 37. This Act shall take effect on July 1, 1993;
19 provided that the director of commerce and consumer affairs, the
20 superintendent of education, the director of health, and the
21 director of human services shall transfer, to the credit of the
22 state general fund, all unexpended or unencumbered balances

1 remaining in any special or revolving fund under their
2 administrative jurisdiction that may be scheduled for repeal
3 under this Act, prior to June 30, 1993.

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INTRODUCED BY: _____